COMMITMENT
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October 18, 2022
Report 2021-113
FACT SHEET

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Batterer Intervention Programs

State Guidance and Oversight Are Needed to Effectively Reduce Domestic Violence

Background

As a condition of probation for a conviction of domestic violence, state law requires the offender to complete a 52-week batterer intervention program that examines issues such as the nature of violence and the effects of abuse on children. Program providers, together with courts and probation departments, comprise the batterer intervention system. Our audit of these systems in Alameda, Contra Costa, Del Norte, Los Angeles, and San Joaquin counties found that they have not adequately held offenders accountable to the conditions of their probation, including that they complete a required batterer intervention program.

Key Findings

- Inadequate offender supervision has undermined the programs' effectiveness in addressing domestic violence.
  - » Nearly half of the domestic violence offenders whose records we reviewed did not complete a program.
  - » Probation departments and program providers often did not report probation violations to the court.
  - » Courts did not impose escalating consequences for a significant majority of probation violations.
- Probation departments did not fully perform their program oversight responsibilities.
  - » They have not established sufficient program standards.
  - » They each approved or renewed program providers that may not have been qualified to rehabilitate offenders effectively.
  - » They could not demonstrate that they conducted appropriate program site visits.
- State oversight and guidance could improve the batterer intervention system.
  - » Legislative changes could ensure better oversight, improve effectiveness, and rectify longstanding problems.

Key Recommendations

The Legislature should do the following to improve the batterer intervention system:

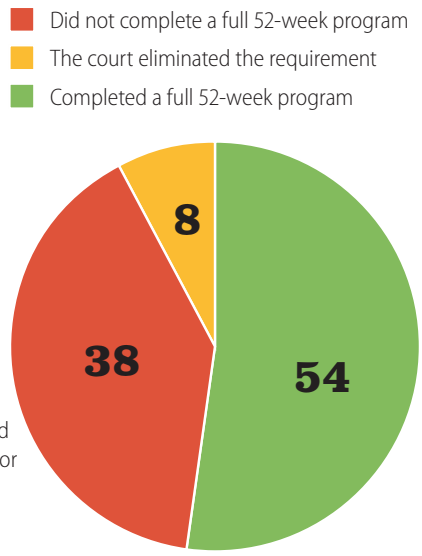
- Strengthen certain program requirements and include additional safeguards in state law.
- Require immediate reporting of all program and probation violations.
- Designate the California Department of Justice as responsible for the oversight of the batterer intervention system.

The five county probation departments should do the following:

- Implement comprehensive policies and procedures for domestic violence case management that clearly describe the departments' expectations for probation staff's compliance with state law.
- Formalize comprehensive standards for program providers that make clear the department's expectations and the documentation it will review to verify compliance with state law.
- Develop and follow policies and procedures for approving, renewing, and conducting comprehensive ongoing program provider monitoring.

The California Judicial Council should establish guidance and provide training to judges regarding the application of the batterer intervention law.

Only 54% of Offenders Completed the Full Court-Ordered Batterer Intervention Program



Of the 38 that did not complete a full 52-week program:
- 10 Failed to enroll
- 7 Terminated by programs for unallowed absences, unpaid fees, or unacceptable behavior
- 21 Other

Source: Review of a selection of 100 offenders (20 from each of the five counties).

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October 18, 2022
2021-113

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

In our office's audit of the batterer intervention programs, we determined that the system—including probation departments, courts, and program providers—had limited impact in reducing domestic violence, and it could improve significantly with statewide guidance and oversight. To reach this conclusion, we reviewed the batterer intervention systems in Alameda, Contra Costa, Del Norte, Los Angeles, and San Joaquin counties.

The system has not adequately held offenders accountable to complete a required batterer intervention program. These county probation departments and providers frequently did not inform the court when offenders violated conditions of their probation, and the courts only imposed escalating consequences for 10 percent of the violations of which they were aware. These shortcomings contributed, in part, to nearly half of the offenders whose records we reviewed not completing the program. More importantly, 65 percent of those offenders who did not complete the full program recidivated for domestic violence or other abuse-related crimes. In contrast, only 20 percent of the offenders who did complete the program reoffended, demonstrating that intervention can be effective if offenders attend and complete the program as the law requires.

The probation departments we reviewed largely neglected their program oversight responsibilities by approving or renewing programs that did not fully comply with state law. In fact, none of those five probation departments has a sufficient framework for program oversight and compliance.

The inconsistent and ineffective practices we found have plagued the batterer intervention system for at least three decades, creating a critical need for statewide guidance and oversight. A state oversight agency could track domestic violence data, establish program standards, oversee program providers, and ensure adequate supervision of offenders to reduce future acts of domestic violence and the harm it causes to victims.

Respectfully submitted,

MICHAEL S. TILDEN, CPA
Acting California State Auditor

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Summary

Results in Brief

Domestic violence is a serious public safety and health issue, affecting families, communities, and the criminal justice system. In 2010 the Centers for Disease Control and Prevention reported that every minute, an average of nearly 20 people are physically abused by an intimate partner in the United States, totaling more than 10 million victims per year. Research further shows that one in six homicides is a result of domestic violence. In an effort to stop domestic violence, California law requires that when a court places a person convicted of a crime of domestic violence (offender) on probation, that offender must complete a batterer intervention program (program) of not less than one year, commonly referred to as a *52-week program*. These programs consist of a structured weekly educational course, which includes group discussions and strategies to hold the offender accountable for violence in a relationship.

Courts, probation departments, and program providers each play key roles in supervising offenders and holding them accountable to the conditions of their probation.[1] These entities compose what is commonly referred to as the *batterer intervention system*. Courts are responsible for sentencing offenders and supervising offenders on informal probation, while probation departments are responsible for supervising offenders on formal probation. Finally, program providers are responsible for delivering education to offenders with the goal of stopping domestic violence.

We reviewed the probation departments, courts, and a selection of program providers in five counties: Alameda, Contra Costa, Del Norte, Los Angeles, and San Joaquin. We found that entities in each county did not implement key aspects of the batterer intervention system and therefore mostly failed to adequately hold offenders accountable to the conditions of their probation. These deficiencies in implementation likely contributed to low numbers of offenders completing a program. Specifically, nearly half of the 100 offenders we selected for review did not complete the full program, and the majority of the offenders who did not complete it subsequently reoffended. In contrast, the offenders we reviewed who did successfully complete the full program were far less likely to reoffend than those who did not.

[1] State law mostly uses the term program when discussing the program providers' responsibilities. Because each program provider is responsible for developing and administering its respective program, we use the terms program and program provider interchangeably in this report.

Audit Highlights . . .

Our audit of California's batterer intervention system in Alameda, Contra Costa, Del Norte, Los Angeles, and San Joaquin counties found that it mostly failed to adequately hold offenders accountable to the conditions of their probation.

» *The batterer intervention system's inadequate offender supervision has undermined the programs' effectiveness in addressing domestic violence.*

- *Nearly half of the domestic violence offenders whose records we reviewed did not complete the program.*
- *Probation departments and program providers often did not report probation violations to the court.*
- *The courts did not impose escalating consequences for a significant majority of probation violations, including when offenders violated protective orders.*

» *The probation departments we reviewed did not fully perform their program oversight responsibilities.*

- *They have not established sufficient program standards.*
- *They each approved or renewed program providers that may not have been qualified to rehabilitate offenders effectively.*
- *They could not demonstrate that they conducted appropriate program site visits.*

» *State oversight and guidance could improve the batterer intervention system.*

- *Legislative changes could ensure better oversight and allow policymakers to make data-driven decisions to improve effectiveness and rectify longstanding problems.*

A lack of critical data prevented us from precisely assessing the factors that correlate with program success or failure. However, we identified deficiencies in three critical areas that were likely major contributing causes to low program completion rates. First, probation departments did not consistently assess all offenders for underlying issues, such as mental health or substance abuse concerns, that might interfere with an offender's ability to complete a program. Second, probation departments, program providers, and courts generally did not hold many of the offenders we reviewed accountable for probation and program violations. Although state law requires probation departments and program providers to report these violations to the courts, they did not always do so for the offenders we reviewed. Finally, even when notified about offenders' violations, the courts, in some instances, referred the offenders back to a program without imposing additional consequences. Although the courts have discretion to consider the circumstances of each offender, their decisions not to impose escalating penalties on offenders who violate their probation likely weakens the impact of programs.

Many of the deficiencies we identified occurred at least in part because none of the five probation departments had established sufficient standards, policies, and procedures for overseeing program providers and ensuring program compliance. In the absence of adequate oversight, some program providers did not supervise offenders appropriately or report required information—such as offender absences and program fees—to the courts and probation departments. Moreover, the probation departments often did not conduct annual on-site reviews of programs as state law requires, and when the departments did conduct these reviews, some were not comprehensive and did not identify areas in which program providers were noncompliant. As a result, each department approved or renewed providers who did not fully comply with state law and who may be offering programs that are ineffective at reducing domestic violence.

The Legislature could improve the effectiveness and consistency of the batterer intervention system by including additional definitions, requirements, and safeguards in state law. Specifically, it could require initial assessments of all offenders before a court orders either formal or informal probation, rather than only after a court imposes formal probation. These initial assessments could reveal any underlying issues that the court should consider during sentencing. Because of the numerous problems and inconsistencies we identified in how the courts, probation departments, and program providers address offenders' unallowed absences, the State would also benefit from further legislative direction on this issue.

Decades of previous reviews have revealed similar systemic failures to those we identified in our current audit. Thus, we believe designating a statewide oversight agency—specifically, the California Department of Justice (Justice)—is critical for ensuring the effectiveness of the State's efforts to reduce and prevent domestic violence. Other states, including Kansas, Massachusetts, Texas, and Washington, have oversight agencies that approve, monitor, and renew their program providers. In addition to performing these responsibilities, a statewide oversight agency in California could provide comprehensive guidance to program providers, rather than the inconsistent and inadequate guidance providers currently receive from county probation departments. The oversight agency could also standardize program curriculum and instructor qualification requirements; track and analyze offender and program data; and collaborate with relevant stakeholders to recommend quality improvements to ensure that programs achieve the desired outcomes. Finally, the oversight agency could work with the Judicial Council of California (Judicial Council) to ensure that the courts and judges have sufficient guidance on holding offenders accountable when they violate the conditions of their probation. Without this additional oversight, it will be difficult for policymakers to make informed decisions about how to improve California's approach to reducing domestic violence.

Recommendations

The following are the recommendations we made as a result of our audit. Descriptions of the findings and conclusions that led to these recommendations can be found in the chapters of this report.

Legislature

To ensure that courts have vital information when sentencing offenders, the Legislature should require probation departments to assess all domestic violence offenders, rather than just those who are placed on formal probation, and to do so before the court sentences the offenders. In addition to the current requirements in state law, the initial assessments should determine an offender's sexual orientation, gender identity, and financial means to facilitate providing the offender with appropriate rehabilitative programs and services.

To ensure that all program providers and probation departments require offenders to attend programs consistently, the Legislature should define *unexcused absences* and provide direction as to whether unexcused absences are allowed and whether offenders must make up missed classes.

To ensure that all courts and program providers use a consistent approach to fee waivers and fee scales, the Legislature should define *indigence* and *ability to pay* as they pertain to California Penal Code section 1203.097. It should also expressly prohibit probation departments and program providers from authorizing fee waivers.

To ensure that offenders have sufficient information when choosing a program provider, the Legislature should require program providers to publicly post a comprehensive description of their sliding fee scales, and it should require the courts to provide each offender with a selection of available program providers, including their standard fees and sliding fee scales, before the offender agrees to the conditions of probation. Further, the Legislature should require the courts to inform offenders of the availability of fee waivers for those who may not have the ability to pay for a program.

To ensure that probation departments and providers provide to the courts timely notification about offenders' program and probation violations, the Legislature should require immediate reporting of all program and probation violations. Further, the Legislature should define *immediate* as within a specified number of business days, such as two business days, after an entity learns of a violation.

To ensure that probation departments, courts, and program providers comply with state law, the Legislature should designate Justice as responsible for the oversight of the batterer intervention system. Its duties should include the following:

- Approving, monitoring, and renewing all program providers.
- Conducting periodic audits of probation departments and program providers.
- Establishing statewide comprehensive standards through regulations, including but not limited to, facilitators' educational requirements and a 52-week curriculum.
- Identifying or developing a comprehensive offender assessment tool.
- Collaborating with the Judicial Council and relevant stakeholders, such as law enforcement representatives, mental health professionals, rehabilitative experts, victims' advocates, and district attorneys, to set standards for programs.
- Tracking relevant offender and program data to analyze program effectiveness.

Alameda, Contra Costa, Del Norte, Los Angeles, and San Joaquin Probation Departments

To ensure that offenders are held accountable for complying with the conditions of their probation, the five probation departments should, by April 2023, formalize and implement comprehensive policies and procedures for domestic violence case management that clearly describe the departments' expectations for probation staff's compliance with state law.

To ensure program compliance with state law, each of the five probation departments should, by April 2023, formalize comprehensive program standards for program providers that present clear guidance on the department's expectations and the documentation it will review to verify compliance with state law. The probation departments should distribute these standards to program providers during their initial application and approval process and again annually during the renewal process.

To ensure that program providers comply with probation departments' standards and state law, the five probation departments should develop and follow formalized policies and procedures for approving, renewing, and conducting comprehensive ongoing monitoring of program providers

by April 2023. These policies should specify the frequency of monitoring, the documentation the department will require of program providers to demonstrate compliance, and the specific actions the department will take when a provider is noncompliant.

To comply with state law, Alameda Probation and Contra Costa Probation should immediately implement record retention policies to maintain documentation on all offenders for five years after the offenders complete or are terminated from probation.

To comply with state law, San Joaquin Probation should immediately follow its record retention policies to maintain documentation on all offenders for five years after the offenders complete or are terminated from probation.

To ensure that the courts can provide an offender with a selection of available program providers and their costs before the offender agrees to attend a program as a condition of probation, the probation departments should maintain standard program fee information and sliding fee scales for each of the providers they oversee. The probation departments should make this information available to the courts by April 2023.

Judicial Council

To ensure that the courts consistently apply consequences to offenders for probation violations, the Judicial Council should establish guidance and provide training to judges regarding the application of the batterer intervention law by April 2023.

Agency Comments

Alameda Probation, Contra Costa Probation, San Joaquin Probation, and the Judicial Council generally agreed with our recommendations and stated they would take actions to implement them. Although Los Angeles Probation and Del Norte Probation generally agreed with our recommendations, both departments disagreed with some of our findings and conclusions.

Introduction

Background

The effects of domestic violence on victims can be far-reaching. As the text box describes, California law generally defines domestic violence to encompass abuse perpetrated against individuals with whom the perpetrator either has cohabited or has had a romantic or familial relationship. The abuse can be physical, sexual, or psychological, and can be motivated by the goal of gaining or maintaining control of the victim. Victims of intimate partner violence—a subset of domestic violence—are more likely to drop out of school and experience physical and mental health disorders. Moreover, in some cases, domestic violence can lead to death. In fact, research from the Centers for Disease Control and Prevention shows that intimate partners are responsible for about one in six homicides.

Definition of Domestic Violence Under State Law

Abuse perpetrated against one of the following:

- A spouse or former spouse.
- A cohabitant or former cohabitant.
- Someone with whom the perpetrator has or had a dating or engagement relationship.
- Someone with whom the perpetrator has had a child.
- Certain other family members, such as parents or children.

Source: State law.

Domestic violence affects a significant proportion of California's population. In 2010 the Centers for Disease Control and Prevention reported that on average, nearly 20 people per minute were physically abused by an intimate partner in the U.S., which equates to more than 10 million victims per year.[2] Similarly, according to the Little Hoover Commission's January 2021 report on intimate partner violence, one-third of women and one-quarter of men in California will experience intimate partner violence in their lifetime.

When a court places a person convicted of a crime of domestic violence (offender) on probation in California, state law requires the term of probation to be a minimum of 36 months. As a condition of such probation, state law requires offenders to complete a batterer intervention program (program) of not less than one year—commonly referred to as a *52-week program*. These programs are structured educational courses intended to stop domestic violence. Offenders must complete a program within 18 months. It must consist of weekly two-hour, single-gender, group sessions that include particular educational content, as the text box describes.

Content of Batterer Intervention Programs

Programs must provide educational programming that examines, at a minimum, the following:

- Gender roles.
- Socialization.
- The nature of violence.
- The dynamics of power and control.
- The effects of abuse on children and others.

Source: State law.

[2] The Division of Violence Prevention within the Centers for Disease Control and Prevention's National Center for Injury Prevention and Control focus on preventing violence and its consequences so that all people, families, and communities are safe, healthy, and free from violence.

Nonprofit or for-profit nongovernmental entities (program providers) offer programs to offenders, and offenders, except in limited circumstances, pay fees to attend. The funding for these programs comes from the fees that offenders pay, although program providers may also obtain alternate funding. State law requires program providers to offer a sliding fee schedule that recognizes both the offender's ability to pay and the need for the program provider to meet overhead expenses. A court can waive the fee if it determines that an offender does not have the financial ability to pay.

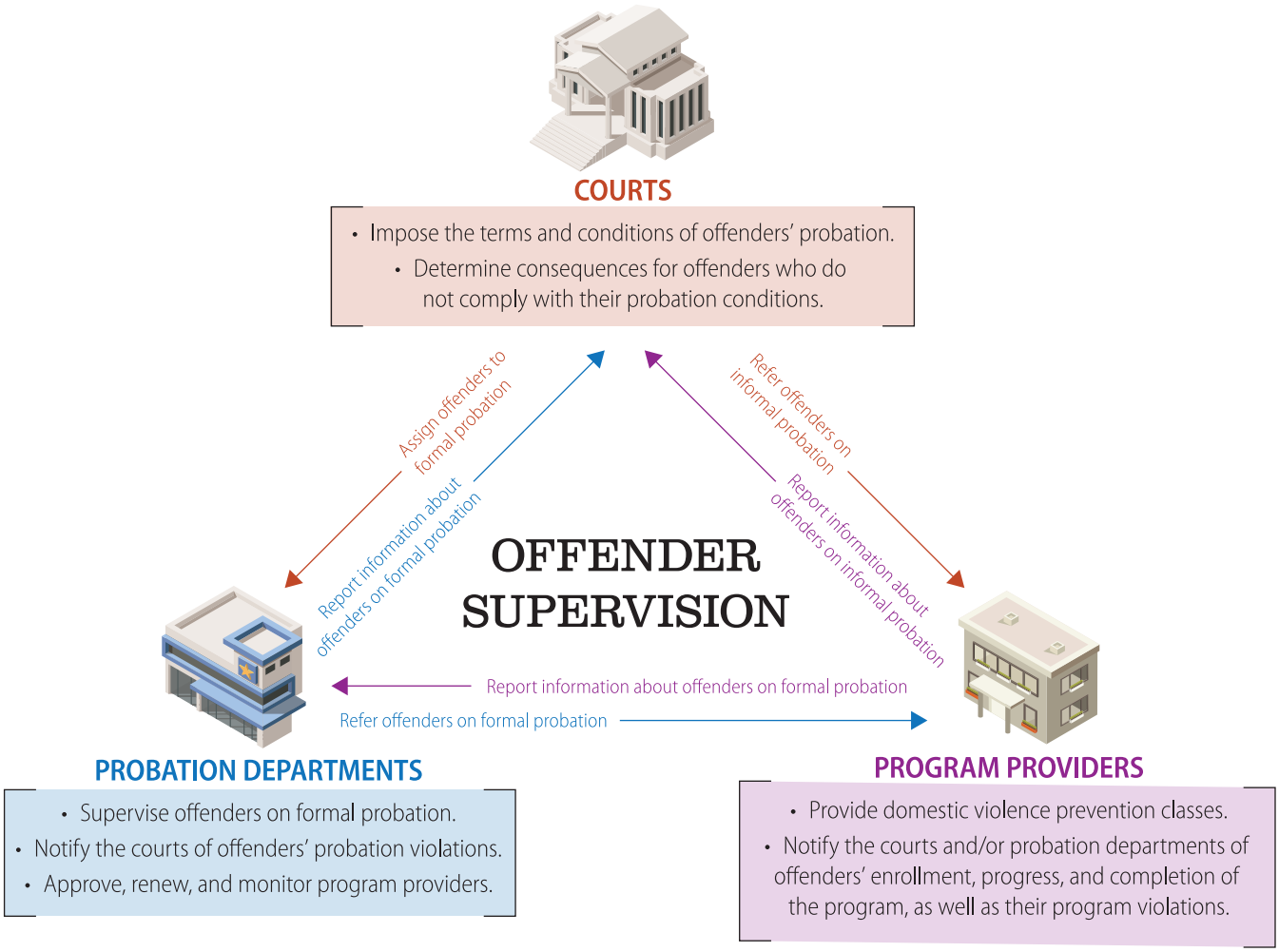
Offender Supervision

The courts, probation departments, and program providers are the cornerstones of what is commonly referred to as the *batterer intervention system*. These entities play key roles in supervising offenders and holding them accountable to the conditions of their probation, as Figure 1 shows. Specifically, the courts are responsible for sentencing offenders to prison or jail and for granting them probation. If a court grants an offender probation, it imposes the conditions of probation, including attending and completing a program. The court is then responsible for ensuring the offender complies with these conditions. If at any time during the term of probation, the court determines that the offender is performing unsatisfactorily in their program, is not benefiting from their program, has engaged in criminal conduct, or has not complied with a condition of probation, state law requires the court to terminate the offender's participation in the program and proceed with further sentencing. The court may sentence the offender to jail or prison or may reinstate probation, with or without additional consequences.

When the court assigns an offender to probation, it places the offender on either formal or informal probation. Under formal probation, the probation department supervises the offender. Under informal probation, the offender must report to the court when ordered to do so by the judge. Depending on whether the probation is formal or informal, either the probation department or the court is responsible for monitoring whether the offender complies with the conditions of probation. During our audit period from 2016 through 2020, two of the five counties we reviewed—Alameda and Los Angeles—had probation departments supervise felony offenders and courts supervise misdemeanor offenders. However, in the other three counties we reviewed—Contra Costa, Del Norte, and San Joaquin—the courts opted to assign all offenders to formal supervision under the probation department.

Once the court places an offender on formal probation, state law requires the probation department to conduct an initial assessment of that individual, including social and economic background,

Figure 1
The Courts, Probation Departments, and Program Providers Each Have Integral Roles in the Batterer Intervention System


COURTS
• Impose the terms and conditions of offenders' probation.
• Determine consequences for offenders who do not comply with their probation conditions.
Assign offenders to formal probation
Report information about offenders on formal probation
Refer offenders on informal probation
Report information about offenders on informal probation
OFFENDER SUPERVISION
Report information about offenders on formal probation
Refer offenders on formal probation
PROBATION DEPARTMENTS
• Supervise offenders on formal probation.
• Notify the courts of offenders' probation violations.
• Approve, renew, and monitor program providers.
PROGRAM PROVIDERS
• Provide domestic violence prevention classes.
• Notify the courts and/or probation departments of offenders' enrollment, progress, and completion of the program, as well as their program violations.

Source: State law.

education, criminal history, medical history, and substance abuse history. State law generally authorizes the probation department to make provisions for the offender to attend a chemical dependency treatment program in addition to a batterer intervention program. Probation departments are responsible for referring offenders to a batterer intervention program, ensuring that they complete a program, and that they fulfill any other conditions of probation. To supervise offenders appropriately, state law requires probation departments to communicate with its program providers. If an offender fails to comply with his or her probation conditions, the probation department must report the violations to the court.

Program providers must assess offenders to ensure that they are suited to a program; if they are not, the program provider must immediately contact the probation department or the court. For example, if offenders have unresolved substance abuse or mental health issues or if their behavior is volatile, they may not be able to comply with program requirements. Program providers must also submit periodic progress reports made to the courts and probation departments and immediately notify them of protective order violations, including additional acts of violence and failure to comply with program requirements. Finally, program providers must conduct exit conferences that assess the offenders' progress during their programs and submit final evaluations of those offenders to the probation department.

Program Oversight

State law requires county probation departments to design and implement an approval and renewal process for program providers within their respective counties to ensure that they comply with state law and operate effectively. Program providers must submit an application that demonstrates they possess adequate administrative and operational capabilities. Once a probation department initially approves a program, the program provider must submit an annual application to renew its approval, which the probation department must approve or deny based on the provider's compliance with state law and department standards. As part of the approval and annual renewal process, state law requires probation departments to conduct at least one on-site review of each program, including monitoring a program session.

The probation departments we reviewed each use a different number of program providers. For example, the Del Norte County Probation Department (Del Norte Probation) uses two program providers, while the Los Angeles County Probation Department (Los Angeles Probation) stated that it uses 147 program providers. The probation departments generally explained that to determine the number of program providers they need, they consider the number of offenders, geography, and offender demographics in their respective county.

The batterer intervention law requires probation departments to establish program standards, but it is not prescriptive about what probation departments must include in those standards.[3] Probation departments have the sole authority to deny, revoke, or suspend program approval if they find a program provider is noncompliant

[3] We refer to California Penal Code section 1203.097 as the batterer intervention law.

with their standards or the batterer intervention law. Aside from the initial and annual on-site visits, the batterer intervention law does not prescribe the manner in which probation departments should perform ongoing monitoring of providers. As a result, probation departments have discretion to develop a monitoring process that best suits their needs. In the five counties we reviewed, some probation departments conduct only one on-site visit per year, as state law requires, whereas others conduct two or more on-site visits per year.

State law also prescribes a process for probation departments and program providers to follow if a program is not compliant with applicable requirements. Specifically, when a probation department finds that a program is noncompliant with its standards or the batterer intervention law, the department must notify the provider in writing of the areas of noncompliance. Within 14 days, the program provider must respond with a written plan that, at a minimum, describes the corrective action it will take and states the time frame for action implementation. The probation department may either approve or disapprove all or any part of the program provider's plan. If the program provider fails to submit a plan or fails to implement the approved plan, state law requires the probation department to consider whether to revoke or suspend its approval of the program.

Historic Reviews and Recent Statewide Efforts to Improve Program Effectiveness

The Legislature and other state agencies have made efforts to evaluate or improve the effectiveness of the batterer intervention system over the past three decades. Four significant studies since 1990 have looked at the system's efforts to reduce domestic violence, including the responsibilities of the probation departments, courts, and program providers. Many of these reports' findings are similar to the ones we present in this report, demonstrating that key entities, such as the probation departments and the courts, have known for years of the significant shortcomings in their oversight of programs and offenders. Figure 2 highlights some of these reports' findings, which we discuss in more detail throughout our report.

In an effort to improve the overall effectiveness of programs and reduce future incidents of domestic violence, the Legislature designated six counties—Napa, San Luis Obispo, Santa Barbara, Santa Clara, Santa Cruz, and Yolo—to pilot alternative program approaches that include practices supported by evidence as being effective. This pilot effort, which began in 2019 and is scheduled to end in 2023, allows the six selected counties flexibility to customize their batterer intervention systems to meet the needs

Figure 2
For the Past Three Decades, Reviews of Batterer's Programs Have Resulted in Similar Findings

1990
California State Auditor
• Probation departments did not ensure that offenders attended or completed appropriate programs as required.
• Not all of the probation departments had formal procedures for managing offenders.
2005
Task Force on Local Criminal Justice Response to Domestic Violence
• Probation departments, program providers, and courts failed to respond to victims, to enforce the law, to comply with the law, and to work in collaboration.
• When offenders violated program requirements, such as missing too many sessions, the program providers permitted the absences or the court referred the offenders back to complete the program rather than holding them accountable for violating the conditions of their probation.
2006
California State Auditor
• Probation departments did not always notify the courts when programs terminated offenders for violations.
• When probation departments notified the courts, some courts simply referred the offenders back to the programs without imposing additional jail time.
2009
The Judicial Council
• Assessments of basic needs and other factors would be beneficial for all offenders, rather than just those offenders who are on formal probation.

Source: *The Administration of the State's Domestic Violence Diversion Program Could Be Improved*, Report P-852, January 1990.

Task Force on Local Criminal Justice Response to Domestic Violence, *Keeping the Promise: Victim Safety and Batterer Accountability*, June 2005.

Batterer Intervention Programs: County Probation Departments Could Improve Their Compliance With State Law, But Progress in Batterer Accountability Also Depends on the Courts, Report 2005-130, November 2006.

Batterer Intervention Systems in California: An Evaluation, 2009.

of both victims and offenders. The six counties must annually report information, such as the tools they use to assess offenders' risks and needs and program curriculums, to the Legislature. The recommendations we make in this report are independent of any that may result from the pilot effort.

Chapter 1

INADEQUATE SUPERVISION OF OFFENDERS BY COURTS, PROBATION DEPARTMENTS, AND PROGRAM PROVIDERS HAS UNDERMINED THE PROGRAMS' EFFECTIVENESS IN ADDRESSING DOMESTIC VIOLENCE

Key Points

- Nearly half of the domestic violence offenders we reviewed did not complete their full 52-week program. Further, none of the entities involved collected the data necessary for us to fully determine the programs' effectiveness.
- Probation departments, courts, and program providers did not adequately hold some offenders accountable, at times allowing them to violate the conditions of probation repeatedly.
- Probation departments did not always report when offenders violated protective orders, which are intended to protect victims, or when offenders were arrested for subsequent abusive crimes.

Nearly Half of the Offenders We Reviewed Did Not Complete Their Full 52-Week Program

The batterer intervention law does not require the counties or any state entity to track the data that the State needs to evaluate offenders' completion of programs and the programs' effectiveness at stopping domestic violence. As a result, none of the counties—nor the State—maintain comprehensive data on offenders, including the reasons they may have failed to complete a program. The lack of data tracking is particularly concerning given that the previous studies and audits we describe in the Introduction all identified the importance of this information. Some of the probation departments did not maintain complete documentation on all offenders, or did not appropriately retain documentation for five years, as state law requires. These shortcomings left the documentation necessary to conduct our analysis largely incomplete. In the absence of comprehensive data, we were not able to obtain complete records for an adequate selection of offenders to broadly project our findings across the entire offender population.

Nevertheless, to gain insights into program completion and effectiveness, we instead obtained data on a limited selection of records for 20 offenders in each county, for a total of 100 offenders. Even obtaining these data was challenging. The data we were able

to obtain were limited to basic demographics, such as gender, race, ethnicity, and age. We were generally unable to ascertain an offender's educational achievement, income, or sexual orientation since the probation departments and courts did not consistently maintain or note this information in the offenders' files. Further, the Alameda County Probation Department (Alameda Probation) maintained documentation on offenders under its supervision that was notably incomplete, sometimes lacking information on whether offenders even completed their programs. As a result, we included only one offender that Alameda Probation supervised whose documentation we found to be more intact than that of other offenders. In addition, we included only one offender that Los Angeles Probation supervised in our selection because it supervised a small proportion of the offenders in Los Angeles County. The courts supervised the other 19 offenders that we reviewed from both Alameda County and Los Angeles County.

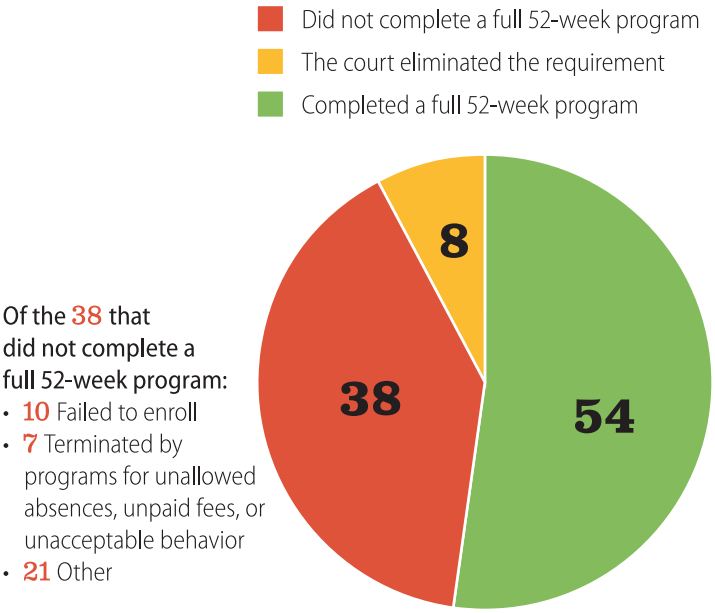
Despite these significant data limitations, we found strong indications that the batterer intervention system does not adequately ensure that all offenders complete their programs. Specifically, 46 of the 100 offenders we reviewed did not complete the full 52-week program, as Figure 3 shows. State law requires offenders to file proof of enrollment in a program within 30 days of their conviction. Once enrolled, state law allows offenders only three excused absences for good cause. However, 10 of the 46 offenders did not complete their programs because they did not enroll at all. Program providers terminated seven for unallowed absences, unpaid fees, or unacceptable behavior in class. Another 21 did not complete their programs for other reasons, such as subsequent crimes or failures to report to court or the probation department. Finally, the court eliminated or stayed the requirement that the remaining eight offenders attend the entire 52 weeks of their programs.

When offenders completed their programs, it appears to have successfully reduced recidivism.

When offenders completed their programs, it appears to have successfully reduced recidivism.[4] Only 11 of the offenders who completed a program, or 20 percent, recidivated for domestic violence or abuse-related crimes after completing the program, as Figure 4 shows. Although 12 of the offenders who completed the program recidivated before their program's completion, they did not reoffend after it. In contrast, 30 offenders, or nearly 65 percent, who did not complete their entire program reoffended. These outcomes demonstrate that successful program completion may have a rehabilitative effect and lessen the likelihood of future abuse or domestic violence crimes. Thus, programs are most effective when offenders complete them—which requires courts, probation departments, and program providers to hold offenders accountable for complying with the conditions of their probation.

[4] Because we did not have access to victim information, we defined recidivism as a subsequent arrest or conviction for an abuse-related crime that would have been domestic violence if committed against a person listed in Family Code section 6211.

Figure 3
Nearly One Half of the 100 Offenders That We Reviewed Did Not Complete a Full 52-Week Program

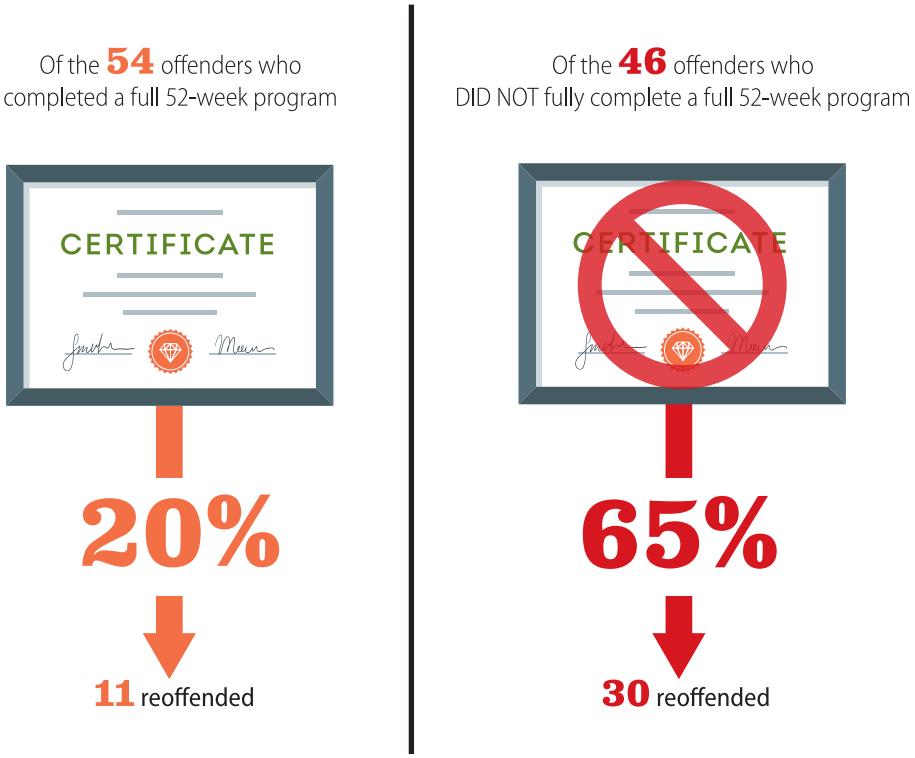

Did not complete a full 52-week program
The court eliminated the requirement
Completed a full 52-week program
8
38
54
Of the 38 that did not complete a full 52-week program:
• 10 Failed to enroll
• 7 Terminated by programs for unallowed absences, unpaid fees, or unacceptable behavior
• 21 Other

Source: Review of a selection of 20 offenders from each county.

Probation Departments, Courts, and Program Providers Have Not Adequately Held Offenders Accountable

Efforts by probation departments, courts, and program providers to implement an effective batterer intervention system have often been inconsistent and inadequate. Our review identified repeated instances in which each of these entities have not taken action to ensure that all offenders were adequately held accountable for successfully completing a program, as we describe in Figure 5. For example, none of the probation departments we reviewed adequately assessed offenders as required to identify obstacles, such as substance abuse or medical history, which could prevent them from successfully completing a program. Additionally, probation departments and program providers did not always notify the courts when offenders violated probation. Further, the courts repeatedly referred some offenders who had violated probation back to a program without imposing escalating consequences. Without the dedicated efforts of the entities involved, the batterer intervention system will continue to struggle to fulfill its potential to reduce domestic violence.

Figure 4
Offenders That Successfully Completed a Full Program Were Less Likely to Commit a New Crime



Source: Review of a selection of 20 offenders from each county, and recidivism data from Justice.

An initial assessment of offenders on formal probation must include but is not limited to:

- Social, economic, and family background
- Education
- Vocational achievements
- Criminal history
- Medical history
- Substance abuse history
- Consultation with the probation officer
- Verbal consultation with the victim, only if the victim desires to participate
- Future probability of the offender committing murder

Source: State law.

Probation Departments Have Not Adequately Screened for Underlying Conditions That May Contribute to Offenders' Failure to Complete a Program

The batterer intervention law only requires probation departments to conduct initial assessments of offenders on formal probation, and not those on informal probation. We therefore expected to find that the departments conducted assessments of offenders on formal probation fully and consistently. Initial assessments of offenders on formal probation must include a review of the areas noted in the text box. These initial assessments provide probation departments with vital information about the offender and identify barriers the offender may face in fulfilling the conditions of his or her probation, including completing a program.

Figure 5
Probation Departments, Program Providers, and the Courts Each Have Contributed to the Ineffectiveness of the Batterer Intervention System

Initial Assessments

Probation departments **did not** always conduct initial assessments when required to do so or performed **inadequate** assessments.

Monitoring Offenders and Reporting Violations

Probation departments and program providers either **did not report** probation or program violations at all or did not report them in a timely manner.

When Offenders Violated Probation

Courts often **have not** used their discretion to impose any additional consequences for offenders' probation violations or imposed **ineffective** consequences.

Source: Review of a selection of 20 offenders from each county.

Nonetheless, the five probation departments we reviewed did not always perform these assessments of offenders on formal probation. As Table 1 shows, probation departments formally supervised 65 of the 104 offenders we reviewed.[5] However, the probation departments conducted assessments of only 29 of those offenders, 14 of which occurred more than three months after the court assigned the offender to probation.

The probation departments offered varying reasons for their failure to conduct the required assessments. The Del Norte and Contra Costa probation departments stated that they conduct initial assessments of only felony offenders. According to Del Norte Probation, it does not have the resources to conduct initial assessments of all formally supervised offenders as state law requires. However, we found that it did not conduct an initial

[5] Because Los Angeles Probation and Alameda Probation each only formally supervised one offender in our selection of 100 offenders, we reviewed another two offenders from each probation department.

Table 1
None of the Probation Departments Conducted Sufficient Initial Assessments of All Offenders on Formal Probation

PROBATION DEPARTMENT	OFFENDERS ON FORMAL PROBATION	OFFENDERS WITH INITIAL ASSESSMENTS	NUMBER OF OFFENDERS ASSESSED WITHIN 3 MONTHS	ASSESSMENTS WITH ALL REQUIRED COMPONENTS
Alameda†	3	2	0	0
Contra Costa	19	9*	0	0
Del Norte	20	0	0	0
Los Angeles†	3	2	2	0
San Joaquin	20	16	13	0
TOTAL	**65**	**29**	**15**	**0**

Source: Review of a selection of offenders from each county.

* Contra Costa Probation was unable to conduct an initial assessment of one of its offenders because the offender failed to report to the probation department and a warrant for the offender's arrest is still active.

† Because Los Angeles Probation and Alameda Probation each only formally supervised one offender in our selection of 100 offenders, we reviewed another two offenders from each probation department.

assessment for any of the 20 offenders we reviewed, including five felony offenders. Despite the requirements of state law, Contra Costa Probation stated that it did not conduct assessments of misdemeanor offenders. Alameda, Los Angeles, and San Joaquin probation departments could not explain why they did not always conduct initial assessments.

Of the initial assessments that four of the probation departments did complete, all were missing at least one required aspect. For example, Contra Costa Probation's assessments were lacking a review of the offenders' medical history and the probability that they would commit murder, and several of San Joaquin Probation's assessments failed to include information on the offenders' vocational achievements, medical history, substance abuse history, or probability that the offender would commit murder. Additionally, the assessments from our review that Alameda Probation conducted did not include medical history, a verbal consultation or efforts to coordinate with the victim, or a determination of the probability the offender would commit murder. Finally, the assessments from our review that Los Angeles Probation conducted did not always assess offenders' economic background, a verbal consultation or efforts to coordinate with the victim, or a determination of the probability the offender would commit murder. Because the probation departments are not adequately assessing offenders' risks and needs before referring them to a program, they lack assurance that the program to which they refer the offenders can accommodate and address their needs. They thereby increase the risk that the offenders will not complete a program.

Probation Departments and Program Providers Did Not Sufficiently Inform the Courts of All Probation Violations

State law requires probation departments to inform the courts when offenders violate the conditions of their probation. State law also requires program providers to inform the courts when offenders violate certain program requirements. In our review of 100 offenders across all five counties, we found that 92 offenders violated their probation requirements at least once. These violations ranged from having unallowed program absences, to making contact with a victim in violation of a criminal protective order, to committing a subsequent abusive crime. However, when we conducted a detailed review of 25 of these offenders—five from each county—we found that both the probation departments and the program providers frequently failed to notify courts of the offenders' violations.[6]

In total, these 25 offenders accumulated 865 probation violations. As Table 2 shows, offenders committed 405 violations while under the supervision of probation departments, yet the probation departments failed to report 213 of these to the courts as required. Because our review of 25 offenders did not include offenders that Alameda Probation and Los Angeles Probation supervised, we conducted an additional review of three offenders that those two probation departments supervised. In this separate selection, we found similar instances in which these probation departments did not report probation violations to the court. Program providers from four counties, including Alameda and Los Angeles, did not notify the probation departments or courts of 124 instances when offenders violated program requirements.[7] Although we did not identify instances when program providers in Contra Costa did not report violations, Contra Costa Probation did not always retain program reports for five years as state law requires, thus we were unable to fully assess the sufficiency of its programs' reporting. When probation departments and program providers do not inform the courts of probation or program violations, the courts cannot hold offenders accountable.

When probation departments and program providers do not inform the courts of probation or program violations, the courts cannot hold offenders accountable.

Particularly concerning were instances in which probation departments did not inform the courts of violations of a criminal protective order—court orders that protect the victim from the offender—or subsequent arrests for abusive crimes. Of the 213 violations that probation departments did not report to the court,

6 Because Alameda Probation and Los Angeles Probation supervised only one offender each in our selection of 100 offenders we reviewed, these 25 offenders did not include offenders that these probation departments supervised.

7 For certain violations, it was the responsibility of both the program providers and the probation department to report the violation to the court. Thus, some violations are included in both categories when we discuss reporting.

Table 2
Probation Departments and Program Providers Failed To Report The Majority of Offenders' Violations Within Their Supervision

TOTAL PROBATION VIOLATIONS	VIOLATIONS UNDER PROBATION DEPARTMENTS' SUPERVISION*	VIOLATIONS THAT PROBATION DEPARTMENTS DID NOT REPORT	VIOLATIONS THAT PROGRAM PROVIDERS REPORTED†	VIOLATIONS THAT PROGRAM PROVIDERS DID NOT REPORT	TOTAL NUMBER OF VIOLATIONS NOT REPORTED‡
865	405	213	92	124	337

Source: Review of a selection of 25 offenders—five from each county.

* Because Alameda Probation and Los Angeles Probation only supervised one offender each in our initial selection of 100 offenders we reviewed, and the 25 offenders we reviewed for this analysis did not include offenders that these probation departments supervised. However, we separately reviewed offenders that Alameda Probation and Los Angeles Probation supervised and found that both probation departments did not report offenders' probation violations to the court.

† The violations that program providers reported includes those from all five counties we reviewed. Although we did not identify instances when program providers in Contra Costa did not report violations, Contra Costa Probation did not always retain program reports for five years as state law requires, thus we were unable to fully assess the sufficiency of its programs' reporting.

‡ For certain violations, it was the responsibility of both the program and the probation department to report the violation to the court. Thus, some violations are included within both the responsibility of the probation departments and the responsibility of the program providers when we discuss reporting.

nine involved the offender's violating a criminal protective order or being arrested for a subsequent abusive crime. For example, an offender in Contra Costa violated a criminal protective order several times and was arrested for a subsequent abusive offense against the same victim, none of which the probation department reported to the court. Contra Costa Probation could not explain why it did not report these incidents to the court. By allowing offenders to engage in subsequent acts of abuse or interact with their victims without notifying the court, probation departments and program providers are placing victims at risk and sending a message to offenders that this behavior is tolerated.[8]

Further, even when they did report probation violations, the probation departments and program providers did not always ensure that those reports were timely. As a result, some offenders went months without consequences. Probation departments and program providers reported 253 violations to the courts for the 25 offenders we reviewed. However, 151 of these reports—more than half—were significantly delayed.[9] In fact, probation departments took an average of nearly three months after they occurred to report violations, with the longest delay taking nearly a year. For example, in January 2019, a program provider notified Del Norte Probation that it had terminated an offender from its program for unpaid fees. Del Norte Probation waited until September 2019—or eight months later—to notify the court of this violation.

[8] Our review of offenders that Alameda Probation and Los Angeles Probation supervised was limited to three from each department and, although we found both departments failed to report some violations, we did not identify instances when these departments failed to report violations of criminal protective orders or subsequent arrests for abusive crimes to the court.

[9] Some program reports did not include dates of program violations for us to determine whether they reported the violation to the court in a timely manner. As a result, the number of delayed program reports may be higher.

In some instances, delays in reporting may have put victims of domestic violence in unnecessary risk. For example, in our separate review of three offenders that Alameda Probation supervised, we found that the probation department waited 10 months to notify to the court that an offender had failed to report to the department after being released from jail. During this time, the probation department did not have any contact with the offender and did not know the offender's whereabouts. Because the court was unaware that the offender had failed to report to the department, it could not consider imposing consequences. Although we identified reporting delays in each of the counties, none of the probation departments could explain why they had not promptly notified the court of the violations. However, each department generally agreed that it lacks policies that set clear expectations of the time frame for such notifications.

In some instances, delays in reporting may have put victims of domestic violence in unnecessary risk.

Finally, we identified a number of particularly troubling instances in which probation departments did not notify the courts that offenders had not completed a program before their probation periods ended. For example, Contra Costa Probation failed to report to the court that an offender had not enrolled in a program for more than two years, despite the probation officer advising the offender to enroll in a program on seven separate occasions. Once the offender finally enrolled, Contra Costa Probation recognized that he would not complete his program before his term of probation expired, but it did not notify the court as it should have. As a result, the offender's probation ended with his completing only 19 of the 52 required sessions. We found similar instances in cases overseen by San Joaquin Probation. The courts rely on the probation departments to notify them if offenders have not complied with the conditions of probation so that they can take appropriate action, such as modifying or revoking probation and proceeding with further sentencing. By failing to notify the courts when offenders do not complete a program, the probation departments are undermining the court's ability to take these actions.

The failure of probation departments to notify the courts about probation violations is not a new concern. Both the 2005 task force report and our 2006 report found that offenders frequently failed to complete a program, and our 2006 report noted that offenders repeatedly violated probation conditions and the probation departments did not notify the court. The 2005 task force report found that program providers and probation departments allowed more absences than the law permits. Our 2006 report found that San Joaquin Probation counseled offenders who failed to attend program classes and directed them back to a program without notifying the court, which allowed the offenders to avoid the consequences of violating the conditions of their probation.

Currently, San Joaquin Probation's policies state that a program provider should discharge the offender on the fourth absence and that the probation officer must file a probation violation and refer the offender back to court each time a program provider discharges an offender for absences. Nonetheless, as part of our current audit, we found that San Joaquin Probation still directs some offenders back to programs and cannot always demonstrate that it notifies the court. According to San Joaquin Probation, its probation officers consider the totality of the offender's circumstances before determining whether to report violations.

In part, probation departments have not held offenders accountable because they lack sufficient policies and procedures to guide their probation officers' supervision of offenders. Specifically, Contra Costa Probation and Del Norte Probation do not have policies regarding the supervision of domestic violence offenders, and the remaining three probation departments—Alameda, Los Angeles, and San Joaquin—lack adequate policies regarding offender supervision in a selection of areas, as we show in Figure 6. For example, none of the probation departments have adequate policies to ensure that their probation officers conduct an initial assessment as required by law or that offenders enroll in and appropriately attend a program. Additionally, only San Joaquin Probation's policies spell out the probation officer's responsibility to notify the court when an offender does not complete a program within 18 months. Given the serious nature and consequences of domestic violence, we expected probation departments to provide their staff with clear direction regarding how to address offenders who violate the conditions of their probation and the time frame for doing so.

The Consequences That Courts Issue Offenders Are Often Ineffective and Weaken the Impact of Programs

The courts are responsible for determining the consequences for offenders who violate the conditions of their probation. According to state law, when the court finds that an offender is performing unsatisfactorily or not benefiting from a program, has not complied with a condition of probation, or has engaged in criminal conduct, it must terminate the offender's participation in the program and proceed with further sentencing. State law generally provides the court with the discretion to consider options other than a lengthy jail or prison sentence for the offender. These options may include reinstating or modifying the conditions of probation without jail time or imposing a period of flash incarceration, in which the offender spends one to 10 days in a county jail. If the court revokes probation and then reinstates it, the offender must restart a 52-week program, regardless of how many classes he or she previously attended.

Figure 6
Five Probation Departments' Insufficient Policies Have Contributed to Their Inadequate Supervision of Offenders

DOES THE PROBATION DEPARTMENT HAVE SUFFICIENT POLICIES AND PROCEDURES FOR OFFENDER SUPERVISION?

STATE LAW REQUIRES …		ALAMEDA	CONTRA COSTA	DEL NORTE	LOS ANGELES	SAN JOAQUIN
	… probation departments to conduct an **initial assessment** of an offender if the court orders formal probation and completion of a program.	PARTIAL	NO	NO	PARTIAL	NO
	… offenders to attend consecutive weekly sessions with a maximum of **three excused absences** granted by the program provider for good cause.	NO	NO	NO	NO	NO
	… offenders to file proof of enrollment in a program with the court within **30 days of conviction**.	NO	NO	NO	NO	NO
	… offenders to successfully complete a program within **18 months***.	NO	NO	NO	NO	YES

Source: State law and the five probation departments' policies.

* The court may modify this requirement, if it finds good cause to do so.

Despite their important role in holding offenders accountable, the courts we reviewed frequently did not apply escalating consequences when offenders violated their probation. As we discussed previously, we identified 865 probation violations among the 25 offenders we reviewed. The courts were aware of 756 of these 865 violations but they only imposed escalating consequences for 71 of them, as we show in Table 3. For example, one offender violated program requirements nearly 175 times by, for instance, failing to attend consecutive weekly classes and failing to appear for court hearings. Nonetheless, a Los Angeles court referred him back to a program repeatedly without escalating consequences. The court also extended his probation from three years to nearly five years to allow him to complete his program that state law requires offenders to complete in 18 months. Although the court had the discretion to make these determinations, we expected that it would impose additional consequences when an offender has such a high number of repeat violations.

Table 3
The Courts Did Not Impose Escalating Consequences for Most Probation Violations

TOTAL PROBATION VIOLATIONS	VIOLATIONS OF WHICH THE COURTS WERE AWARE	VIOLATIONS FOR WHICH THE COURTS IMPOSED ESCALATING CONSEQUENCES
865	756	71

Source: Review of a selection of 25 offenders—five from each county.

Particularly troubling were cases in which the courts did not apply effective consequences when offenders violated protective orders or were arrested for additional crimes. In our review of 25 offenders, we identified 21 subsequent protective order violations and arrests for abusive crimes. The courts were aware of 12 of these violations yet allowed the offenders to continue on probation following nine of them. In one instance in Del Norte, the court found that an offender had violated the protective order on two separate occasions, including one subsequent domestic violence arrest during the offender's probation. The court remanded the offender to jail for a month each time but then allowed the offender to continue on probation after each violation. These repeated violations demonstrate that the consequences were not effective in deterring the offender from committing future incidents of domestic violence and protecting the victim from further harm.

When courts choose not to impose escalating consequences, they may weaken the impact of the batterer intervention system.

Because courts have in some cases chosen not to impose escalating consequences, they may have weakened the impact of the batterer intervention system, which was designed to strengthen domestic violence laws. We acknowledge that the decision to either reinstate probation or terminate probation and sentence the offender to jail or prison is within the discretion of the courts. Although the courts ultimately sentenced to jail or prison more than half of the offenders who did not comply with their probation conditions, we are concerned that courts may be taking a prolonged approach to these decisions that may place victims at risk. The 2005 task force report found that the most common judicial sanction for probation violations was to refer the offender to a program again, numerous times if necessary. Although the courts cannot prevent future acts of domestic violence, imposing escalating consequences for violations sooner could compel offenders to successfully attend or to complete a program. Further, when offenders demonstrate that they are not interested in rehabilitating or in complying with the conditions of their probation, it may be more effective for the courts to escalate the consequences or sentence the offender to county jail or state prison, rather than to reinstate probation on the same terms and conditions. Escalating consequences might also better protect victims.

The Judicial Council of California (Judicial Council) does not have an oversight role with respect to judicial decision making in legal matters before a court. However, it does provide guidance to judges about domestic violence through various education forums. For example, the Judicial Council hosts a Domestic Violence Institute, a three-day in-person training for judges. The Judicial Council explained that this year's training included a presentation on a model of offender rehabilitation. However, upon review of the presentation, we did not identify any specific guidance to judges on how to provide additional consequences for offenders.

In addition, the Judicial Council publishes a domestic violence bench guide for criminal court judges that it designed to be a reference to domestic violence law in criminal cases. The guide includes information on, among other things, pretrial release considerations, criminal protective orders, and sentencing. It also includes the recommendation from the 2005 task force report that the courts, in consultation with the probation departments, develop a strategy so that multiple reenrollments in programs do not take place without additional and graduated sanctions for offenders, such as jail time. However, as we describe in this report, the courts have not consistently provided additional consequences to hold offenders accountable. Therefore, we believe the Judicial Council should provide specific training to the courts in this regard.

Please refer to the section beginning on page 5 to find the recommendations that we have made as a result of these audit findings.

Chapter 2

THE PROBATION DEPARTMENTS WE REVIEWED HAVE LARGELY NEGLECTED THEIR PROGRAM OVERSIGHT RESPONSIBILITIES

Key Points

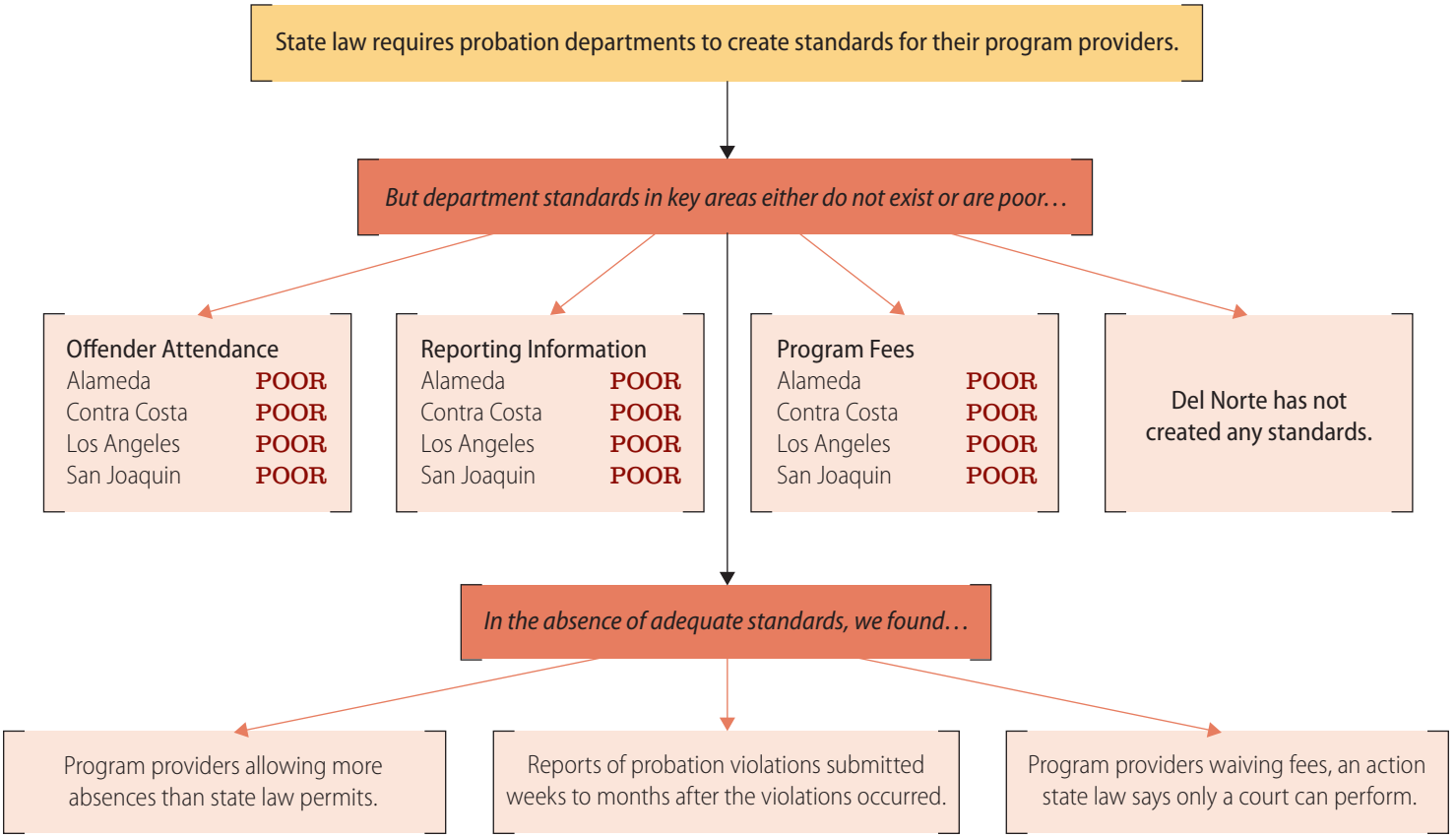
- None of the five probation departments we reviewed have established sufficient program standards to serve as a framework for program oversight and compliance.
- In the absence of adequate policies and practices, the five probation departments each approved or renewed program providers that did not comply with state law and may not have been qualified to rehabilitate offenders effectively.
- None of the five probation departments could demonstrate that they conducted on-site monitoring visits of each program annually, as state law requires.

The Five Probation Departments We Reviewed Have Not Provided Sufficient Guidance to Program Providers

Many of the problems we identify in Chapter 1 occurred at least in part because none of the probation departments we reviewed have established sufficient standards as a framework to ensure that program providers comply with state law and departmental expectations. State law requires probation departments to create standards for program providers to follow, but this law does not prescribe what they should include in their standards. We found that Del Norte Probation has not established any standards and it could not explain why this was the case. For the other four probation departments, we reviewed three selected areas of program provider operations: tracking offender attendance, reporting offenders' program status to the probation departments and courts, and charging fees of offenders. Although the four departments have some standards in most areas, in the three areas we reviewed we found that their standards are not comprehensive enough to give program providers the direction necessary to assist them in complying with state law and adhering to the departments' expectations as Figure 7 shows.

State law specifies that program providers may allow offenders no more than three excused absences for good cause, thereby making the program providers responsible for granting absences for good cause. However, none of the four departments have provided adequate

Figure 7
The Probation Departments Have Established Inadequate Standards for Their Program Providers


State law requires probation departments to create standards for their program providers.
But department standards in key areas either do not exist or are poor...
Offender Attendance
Alameda POOR
Contra Costa POOR
Los Angeles POOR
San Joaquin POOR
Reporting Information
Alameda POOR
Contra Costa POOR
Los Angeles POOR
San Joaquin POOR
Program Fees
Alameda POOR
Contra Costa POOR
Los Angeles POOR
San Joaquin POOR
Del Norte has not created any standards.
In the absence of adequate standards, we found...
Program providers allowing more absences than state law permits.
Reports of probation violations submitted weeks to months after the violations occurred.
Program providers waiving fees, an action state law says only a court can perform.

Source: State law and review of the five probation departments' standards for program providers and a selection of 20 offender files from each county.

guidance to their providers on how to address unallowed absences, including unexcused absences and excused absences that exceed the three allowed. While Los Angeles Probation's standards do not address absences at all, the standards of Alameda Probation and San Joaquin Probation provide more flexibility than state law permits. For example, Alameda Probation's standards do not specify that offenders are not allowed to have unexcused absences. Lacking this specificity, it is not surprising that Alameda Probation did not identify when program providers allowed offenders unexcused absences. San Joaquin Probation's standards allow up to six makeup sessions—or double the three excused absences that state law allows. Further, Contra Costa Probation's standards incorrectly state that only the probation department can excuse an absence for good cause, when in fact state law makes this the responsibility of program providers. At least in part due to this inadequate guidance, we identified that some program providers did not report absences consistently or appropriately and that some probation departments did not take action to correct this incorrect reporting.

Probation departments' inadequate standards and practices related to unallowed absences is not a new issue. The 2005 task force report found that all of the program providers the task force surveyed appeared to have policies or practices that, to varying degrees, excused more absences than the law permitted. More than a year later, our 2006 report pointed out that probation departments' attendance policies, including those of Los Angeles Probation and San Joaquin Probation, were more flexible than state law allowed. In fact, our 2006 report found that Los Angeles Probation did not distinguish between excused and unexcused absences, while our current review found that its standards do not mention absences at all. Sixteen years later, San Joaquin Probation also continues to employ the same practice of counseling offenders who fail to attend program classes and directing them back to a program, rather than formally notifying the court of violations.

The four probation departments' standards also lack sufficient guidance about the timeliness with which program providers need to report certain information to the departments. The text box shows this required information. The batterer intervention law does not include specific time frames for reporting this information; instead, it uses terms such as *periodically* and *immediately*. Consequently, we expected the probation departments to specify what they consider immediate reporting, such as the next business day or within two business days, and what they consider periodic reporting, such as every three months. However, none of the four departments' standards sufficiently specify the time frames for when program providers must submit all six of these reports.

Program Reporting Requirements

1. Proof of enrollment noting the fee per session.
2. Failure to enroll in the program.
3. Periodic progress reports including attendance, fee payment history, and program compliance.
4. Final evaluation of the offender's progress, and a recommendation for either successful or unsuccessful termination or continuation in the program.
5. Immediate notification of protective order violations, including any new acts of violence or failure to comply with program requirements.
6. Immediate notification of offender unsuitability for the program.

Source: State law.

Without the framework for probation departments to oversee program providers, we observed instances when some program providers had not reported critical offender information for months. For example, because unallowed absences are a program violation, we expected the departments' standards to describe how soon program providers should report these absences, such as within two weeks. However, none of the probation departments' standards specified the time frame for reporting such absences, and state law requires program providers to report attendance only periodically to the probation department. When the program providers fail to report required offender information in a timely manner, probation departments and courts lack necessary information to supervise offenders effectively.

Additionally, we expected the probation departments' standards to include specific guidance regarding the content that each type of report must contain to comply with state law. For example, state law requires program providers to submit proof of an offender's enrollment to the probation department and the court, including the fee charged to the offender per session. However, Contra Costa Probation's standards do not require program providers to disclose the fee they charge each offender per session in their enrollment reports. Although the Alameda, Los Angeles, and San Joaquin probation departments' standards state that the fee per session should be included in enrollment reports, we found instances in which some program providers in each of these counties apparently failed to report these fees, as the offenders' files did not contain a record of them. Additionally, the Contra Costa and San Joaquin probation departments' standards do not require program providers to include the offenders' fee payment history in the periodic progress reports they submit to the probation departments, as state law requires. Without such fee information, the probation departments cannot evaluate whether the program providers charged offenders appropriately.

Finally, none of the four probation departments' standards provide sufficient guidance to assist program providers in charging offenders appropriate fees. According to state law, program providers must develop and use a sliding fee scale that recognizes both an offender's ability to pay and the necessity of the program to meet overhead expenses. Further, state law requires program providers to charge all offenders at least a nominal fee unless the court waives this fee. However, the probation departments' standards we reviewed do not always require providers to consider both the offender's ability to pay and the necessity of meeting the provider's overhead expenses; require offenders who are indigent to pay a nominal fee; or prohibit providers from waiving offenders' fees.

We found that without such a framework for oversight, some probation departments have not always identified or taken action when program providers' fee scales did not comply with state law. For example, a program provider in Del Norte County established a fee scale that waives fees for offenders who earn less than $39,000 annually because the provider considers those offenders to be indigent. However, this directly contradicts state law, which allows only a court to fully waive an offender's fees. Without appropriate guidance and oversight, program providers may develop fee scales that do not consider all relevant factors and do not comply with state law.

Without appropriate guidance and oversight, program providers may develop fee scales that do not comply with state law.

Although San Joaquin Probation's standards reiterate state law and specifically require program providers to develop fee scales that consider the offender's ability to pay and the program's overhead

expenses, it does not comply with its standards or with state law in practice. Rather, San Joaquin Probation requires its program providers to use a standardized fee scale that it established rather than allowing them to develop their own. By not allowing providers to determine the fees they charge, it has exceeded its authority. Further, despite its standards requiring all offenders to pay at least a nominal fee, San Joaquin Probation also exceeds its authority by offering free program options to offenders.

The Five Probation Departments Have Not Adequately Approved, Renewed, or Monitored Program Providers

As we describe in the Introduction, state law requires probation departments to design and implement an approval and renewal process for their programs and to ensure that program providers comply with state law. State law establishes a minimum process for the initial approval and renewal of programs each year, which the text box describes. The statutory requirements for both the approval and renewal processes are the same. Nonetheless, the five probation departments we reviewed lack sufficient policies and procedures for approving, renewing, and monitoring programs. Further, none of the five probation departments could demonstrate that they adequately ensured program providers complied with state law.

Approval and Renewal Requirements

State law sets forth the following minimum requirements for probation departments' initial approval and annual renewal of programs:

- The program provider must submit a written application describing its program.
- The program provider must demonstrate that it possesses adequate administrative and operational capability to operate a program.
- The probation department must conduct an on-site review of the program, including monitoring a class session.
- The probation department must review information relative to a program provider's performance or failure to adhere to standards.
- With limited exceptions, the probation department must charge program providers an annual fee not to exceed $250.

Source: State law.

We found three issues with these renewal and approval processes. First, none of the probation departments could demonstrate that they had established a fair and equitable process for acquiring new program providers. Second, none of the probation departments could demonstrate that they always collected and appropriately reviewed approval and renewal applications. Lastly, none of the probation departments have adequate processes to monitor program providers to ensure they complied with state law before renewing them. As a result, each of the probation departments have approved or renewed program providers that did not comply with state law or may not have been qualified to rehabilitate offenders effectively.

None of the Five Probation Departments Have Adequate Processes for Soliciting, Approving, and Renewing Programs

To obtain the most qualified program providers in a fair and equitable manner, we expected probation departments' approval processes to be based on common government practices and to include a means

of transparently soliciting new program providers when needed. Nonetheless, all five probation departments we reviewed either lack policies or their policies are silent as to how and whether they solicit new providers. Likely in part as a result, Contra Costa Probation and Del Norte Probation each explained that they had a single program provider apply from 2016 through 2020, while the other three departments did not have any apply. Lacking a solicitation process, probation departments cannot ensure that they are acquiring the most qualified program providers to meet their needs.

We found that Los Angeles Probation's process for acquiring new providers in particular is preselective. Specifically, Los Angeles Probation explained that when a need arises for a new provider, it selects a provider that it believes may be best suited to fulfill that need based on previous informal communication with the program provider and on how often the provider informally requests approval. Los Angeles Probation stated that it does not publicly post a solicitation or openly solicit all providers who have previously inquired about offering a program in the county. Los Angeles Probation stated that since its process is preselective, it has not received new applications that warrant formal denials.

None of the five probation departments have established adequate policies and procedures for approving and renewing program providers.

Although state law requires an approval and renewal process, none of the five probation departments have established adequate policies and procedures to ensure consistency in and hold department personnel accountable for their approval and renewal practices. For example, Alameda Probation has policies that generally describe its approval and renewal process, such as reviewing the written application, collecting a $250 fee, and conducting an on-site review. However, it lacks clear policies for probation staff to follow to ensure they consistently review all required elements of the renewal application and conduct an adequate on-site review to ensure compliance with state law. Similarly, Los Angeles Probation and Contra Costa Probation each have standards that they give to the program providers that describe the general renewal and approval process, but they do not have any policies that probation staff must follow for their review of the applications and on-site reviews. In the case of Del Norte Probation, it does not have a formal approval and renewal process at all.

In contrast, San Joaquin Probation has policies and procedures that clearly describe the approval and renewal process and the specific steps staff must take during that process to ensure program providers comply with state law. However, its policies and procedures are not comprehensive in certain areas, such as ensuring staff confirm that program providers have confidentiality agreements with offenders and properly review program providers' fees. Additionally, neither it nor any of the other four probation

departments could demonstrate that they adequately reviewed the program providers' annual renewal applications. Our 2006 report found these same issues, including at Los Angeles Probation and San Joaquin Probation. We are concerned that these departments appear to have struggled to effectively oversee their program providers for more than 15 years.

Without documented policies for staff to follow for the approval and renewal process, departments risk being unable to justify their decisions. For example, as we mention previously, Contra Costa Probation and Del Norte Probation explained that they each had a single program provider apply during our audit period. Contra Costa Probation informally denied the one program provider, while Del Norte Probation approved the one program provider who applied. However, neither department could demonstrate the basis for its decision, let alone provide the program providers' formal applications. As a result, it was unclear whether either applicant met the program requirements.

Moreover, some of the annual renewal applications we reviewed were incomplete or missing. Specifically, Alameda Probation, Los Angeles Probation, and San Joaquin Probation could not demonstrate that they received renewal applications annually for some of the providers we reviewed. The remaining two departments—Contra Costa Probation and Del Norte Probation—could not demonstrate that providers submitted all required documentation for their annual renewals. As a result, none of the five probation departments could ensure that all of their program providers remained in compliance with state law or their standards each year. In fact, as we describe later, they each approved some programs that did not comply with state law.

The most serious and systemic issues we identified involved Los Angeles Probation, which oversees nearly 150 program providers. When we requested the probation department's renewal documentation for a selection of providers, the department responded with bankers' boxes that contained hundreds of renewal applications dating back to at least 2016. The boxes contained many unopened envelopes from program providers that included uncashed checks for the annual renewal fee of $250. Los Angeles Probation's failure to review these renewal applications made apparent that it was automatically renewing each of the program providers every year, sometimes without depositing the fees. This lack of program oversight is concerning because it does not ensure that program providers have complied with state law or are qualified to rehabilitate offenders effectively.

Lack of program oversight is concerning because it does not ensure that program providers have complied with state law or are qualified to rehabilitate offenders effectively.

The Five Probation Departments Did Not Adequately Monitor Program Providers and Renewed Programs That Did Not Comply With State Law

The frequency and quality of the on-site reviews of program providers varied greatly among the five counties.

As part of the approval and renewal process, state law requires probation departments to conduct on-site program reviews before they initially approve a program provider and annually upon renewal thereafter. We expected each probation department to have robust formal procedures that describe the steps it must take and documentation it must review to ensure that its program providers comply with its standards and state law. However, we found that the frequency and quality of the reviews varied greatly among the five counties. Further, none of the departments had established a sufficient on-site review process. The departments' inadequate monitoring likely contributed to their decisions to renew program providers that may not be qualified. Specifically, when we reviewed 14 renewals—two to three in each of the five counties—we found that the probation departments renewed all 14 programs, none of which demonstrated that they fully complied with state law.

None of the five departments conducted an adequate number of reviews. For example, from 2016 through 2020, Del Norte Probation had two program providers instructing offenders. We expected to see documentation demonstrating that the department had conducted five annual on-site reviews—one each year—of each of the two program providers, for a total of 10 on-site reviews. However, the department could provide documentation of only one on-site review—and it was incomplete. Although Alameda Probation, Contra Costa Probation, Los Angeles Probation, and San Joaquin Probation conducted more on-site visits than Del Norte Probation, these departments also could not demonstrate that they conducted on-site visits of each program annually.

Del Norte Probation also did not address significant deficiencies that it identified in the single on-site review it performed. For example, according to notes from the visit, the department observed offenders inappropriately leaving class during the session, which means they were not attending the full two hours as state law requires. Although Del Norte Probation formally notified the program provider of most deficiencies, it failed to mention the issue of offenders leaving during the required full two-hour session. Moreover, it also renewed that program the following year without assurance that the program provider had taken steps to require offenders to attend full sessions each week.

When we examined documentation of on-site program reviews that Alameda Probation, Contra Costa Probation, Los Angeles Probation, and San Joaquin Probation conducted, we found similar deficiencies in their review processes that leave the departments vulnerable to approving and renewing ineffective programs. For

example, Los Angeles Probation did not review program providers' progress and enrollment reports to ensure that they contain all statutorily required information, such as fees. We found similar deficiencies in a selection of monitoring reviews performed by Alameda Probation, Contra Costa Probation, and San Joaquin Probation. Our 2006 report also concluded that the probation departments did not consistently perform annual on-site program reviews and that when departments did conduct those reviews, some of the offenders' records did not include progress reports, counseling notes, or attendance records, an essential part of the on-site review process. The similarity of our past findings to our current ones suggests that the problems have been ongoing.

Because of their poor processes for conducting reviews, the probation departments did not always collect the documentation necessary to ensure program providers complied with state law. Further, within the documentation they did collect, the departments did not identify areas of noncompliance. When we reviewed a selection of program providers, we identified deficiencies that the probation departments either did not identify or did not review. As a result, the probation departments inappropriately renewed these programs. For example, state law requires program staff, to the extent possible, to have specific knowledge regarding spousal abuse, child abuse, substance abuse, sexual abuse, the dynamics of violence and abuse, the law, and procedures of the legal system. However, neither Contra Costa Probation nor Del Norte Probation ensured that their providers submitted the appropriate training certificates, nor did they identify the fact that none of the 13 available training records for the facilitators we reviewed had training certificates in all of the required areas.

We identified program deficiencies that the probation departments either did not identify or did not review before inappropriately renewing the programs.

Further, state law requires program providers to have a written agreement with offenders that includes an outline of program content, attendance and sobriety requirements, and notification that the program provider may remove the offender from the program if he or she is disruptive or not benefiting from the program. However, Alameda Probation and San Joaquin Probation did not always ensure that their providers include all required components that inform offenders of program expectations in their written agreements. Nonetheless, Alameda Probation and San Joaquin Probation continued to renew the programs.

Finally, we also found that Alameda Probation did not comply with state law when it revoked the approval of one of its programs. According to state law, when a probation department determines that a program does not comply with the batterer intervention law or department standards, it must notify the program provider of the noncompliant areas. The program provider must then submit a written plan of corrections within 14 days, describing

each corrective action and a time frame for implementation. The probation department must approve or disapprove all or any part of the provider's plan in writing. Alameda Probation revoked the approval of one program for not complying with the department's standards but did not provide it with written notice of noncompliant areas or allow it to provide a plan of corrections. Alameda Probation could not explain why it took such abrupt action.

In another example, Contra Costa Probation sent a noncompliance notice to a program provider, but the provider did not submit its corrective action plan within 14 days. Although Contra Costa Probation asserted that it revoked the approval of the program because its plan of correction was not timely, it could not demonstrate that it had formally revoked the approval. The other three departments explained that they did not formally deny or revoke approval of any programs from 2016 through 2020.

Please refer to the section beginning on page 5 to find the recommendations that we have made as a result of these audit findings.

Chapter 3

INCREASED STATE OVERSIGHT AND GUIDANCE IS VITAL TO IMPROVING THE BATTERER INTERVENTION SYSTEM

Key Points

- Legislative changes are necessary to improve the batterer intervention system. These changes include requiring initial assessments of all offenders before sentencing, defining *ability to pay* and *indigence* related to program fees, and specifying time frames for probation departments and program providers to report program and probation violations to the courts.

- Other states we reviewed have more comprehensive and robust standards than California, and most have state oversight agencies responsible for approving, monitoring, renewing, and providing guidance to program providers.

- California would benefit from a state oversight agency responsible for overseeing program providers, probation departments' supervision of offenders, the establishment of statewide comprehensive standards, and a system to track critical offender and program data. With this additional oversight, it would allow policymakers to easily access relevant data to make informed decisions to improve the effectiveness of programs and rectify longstanding problems with the batterer intervention system.

Legislative Changes Are Necessary to Ensure Proper Offender Supervision and Program Oversight

The Legislature could rectify some of the ineffectiveness and inconsistencies we identified in our review by including additional definitions, requirements, and safeguards in state law. As described in Chapter 1 and in previous reports by our office and others, the probation departments, program providers, and the courts do not adequately supervise offenders to ensure that they successfully complete their programs and meet the conditions of their probation. As we also discussed, some of the probation departments did not always assess offenders on formal probation and the batterer intervention law does not require them to assess offenders on informal probation. We also found that program providers, probation departments, and courts do not always transparently disclose program fees to offenders, and some have applied fee requirements inappropriately. As a result, we believe the Legislature could improve the performance and operation of the batterer intervention system with some statutory changes, as we show in Figure 8.

Figure 8
Changes to State Law Would Improve the Impact and Operation of the Program

Expand Offender Assessments

The Legislature should require probation departments to…

Assess **all** offenders, including those on informal probation.

Assess offenders **before sentencing**.

Collect **more data** on offenders.

Strengthen Program Fee Requirements

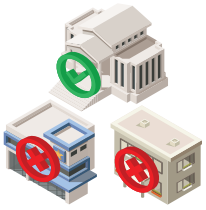
The Legislature should create…

Criteria courts must apply when determining whether an offender can pay for the program.

A requirement that probation departments and program providers publish fees in an accessible manner.

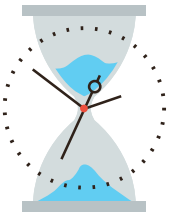
Clarify Specific Provisions of the Law

The Legislature should…



Expressly prohibit any entity but the courts from waiving fees.

Specify whether offenders must make up for excused absences.



Establish how quickly courts must be notified of probation violations.

Source: Analysis of state law.

The Legislature Should Require Probation Departments to Assess All Offenders and Collect Adequate Information Before Courts Order Probation

Requiring probation departments to assess all domestic violence offenders eligible for probation for underlying issues, such as substance abuse or mental health concerns, before courts order probation could have a significant impact on program completion. State law requires probation departments to conduct these assessments only on some offenders—those placed on formal probation—and only after the offender has been granted probation. However, we believe these assessments should occur before the court orders probation in both felony and misdemeanor cases, so that the court can consider each offender's underlying needs and risks when deciding whether to grant probation and when setting the terms and conditions of probation. The information collected from these assessments may also help the court determine whether it is more appropriate for the probation department or the court to supervise the offender. For example, if the initial assessment identifies a mental health or substance abuse concern, the probation department and court can ensure that the offender receives treatment and the court may consider delaying enrollment in a program until after the offender receives such treatment. Considering offenders' needs and risks is critical to setting them up for successful program completion.

Of the 100 offenders we reviewed, 39 were on informal probation and thus did not require an initial assessment. Of the remaining 61 offenders who were on formal probation and required an initial assessment, 32, or more than 50 percent, did not complete a program. However, as we discuss previously, three of the probation departments did not always conduct these required assessments, and all of the assessments the five probation departments did conduct lacked some of the required components. The probation departments later identified that at least 20 of these 32 offenders had potential substance abuse, mental health, or financial issues, underlying conditions that may have contributed to the offenders' failure to complete a program. The court records did not provide sufficient detail for us to identify similar issues for the offenders on informal probation, but some of them may have also had underlying conditions that affected their ability to complete a program. If the Legislature required initial assessments on all offenders before sentencing, the courts and probation departments could appropriately refer them to services to address these underlying issues and remove potential barriers to their completing a program.

If the Legislature required initial assessments on all offenders for underlying issues, the system could remove potential barriers to their completing a batterer intervention program.

It would also benefit the courts and the probation departments if state law required more comprehensive assessments. For example, state law requires all offenders to pay a fee for their program unless the court waives the fee because the offender does not have the

ability to pay. Although the batterer intervention law requires probation departments to assess the economic backgrounds of offenders on formal probation, it does not require probation departments to assess offenders' financial means to pay for a program. If the assessment identified that the offender does not have the financial means to pay, the court could approve a fee waiver or refer the offender to employment services.

Further, the batterer intervention law requires offenders to attend ongoing same-gender group sessions, but it does not require probation departments to assess offenders' gender identities or sexual orientations. Transgender, gender-nonconforming, or not heterosexual individuals may not feel safe and welcome participating in a program that does not focus on LGBTQ relationships. Consequently, these offenders may not receive appropriate rehabilitation from a same-gender program.

Additional Definitions and Safeguards Are Needed Related to Program Fees

Although the batterer intervention law requires program fees and fee waivers be based on the offender's ability to pay, it does not define *ability to pay*. The Legislature could include in the batterer intervention law similar parameters to those in Government Code section 68632. This section authorizes the waiver of court fees for certain individuals, such as individuals who are receiving certain public benefits, who have incomes that are 200 percent or less of the current poverty guidelines, or who cannot pay court fees without using money that would normally pay for the common necessaries of life. Further, while the batterer intervention law allows indigent offenders to negotiate a deferred payment schedule for program fees, it does not provide a definition of *indigence*. Perhaps because state law does not define these key terms and the assessments do not address them, we found that the courts generally could not demonstrate that during sentencing they considered the offenders' ability to pay or whether they were indigent.

In the interest of transparency and to help offenders make informed decisions when selecting a program provider, the Legislature should require the courts, probation departments, and program providers to disclose and make easily accessible information on program fees. We found that none of the five probation departments we reviewed could demonstrate that they fully disclose program fees to offenders. For example, although Contra Costa Probation provides offenders with a listing of providers and some limited fee information, it does not include specific pricing for all programs. Further, San Joaquin Probation explained that it only verbally describes program fees to offenders.

None of the five probation departments we reviewed could demonstrate that they fully disclose program fees to offenders.

In fact, we found that probation departments generally do not maintain program fee information and therefore have likely not provided such information to the courts. As a result, probation departments and courts have not disclosed program fees to offenders when referring them to a program. The batterer intervention law does not require the probation departments or the courts to disclose program fees to offenders or to advise them of the availability of fee waivers. Without such disclosures, we question how offenders can fully understand program fees or the option to request a fee waiver from the court before agreeing to attend a program as a condition of their probation. Further, they may be unaware that they can also request a fee waiver at any time during their probation term, should their financial situation change.

Additionally, the majority of program providers do not transparently disclose their fees on their websites. According to a 2021 study that the University of California, Los Angeles, conducted regarding program fees in Los Angeles County, some program providers would not fully disclose their sliding fee scales over the phone. Rather, an individual seeking information about sliding fee scales needed to go to the program provider in person and provide documentation of his or her financial situation. Further, the report found that although over half of the 83 programs the researchers interviewed had websites, only eight advertised their fees on their websites. When we evaluated websites for 26 program providers across the five counties we reviewed, we found that the majority of them did not transparently or sufficiently disclose their fees or their sliding fee scales. Requiring program providers to disclose their fees clearly and transparently will allow offenders to obtain sufficient information to select a program that is most suitable to their financial situation.

We evaluated websites for 26 program providers across the five counties and found that the majority did not sufficiently disclose their fees or their sliding fee scales.

Additional Guidance in State Law Could Help Probation Departments and Providers Administer Programs Consistently

The Legislature could rectify some of the issues we discuss in Chapter 1 pertaining to excessive absences by adding specific direction into state law. Although the batterer intervention law allows program providers to grant no more than three excused absences for good cause, this law does not specify whether offenders must make up any such missed classes. When we reviewed a selection of program provider policies, we found that some require offenders to make up missed classes and attend the full 52 weeks, whereas others allow offenders to attend only 49 classes, taking into consideration the three excused absences that state law allows. Further, the batterer intervention law does not provide direction on how program providers should address unexcused absences. Although we believe that an unexcused

absence is a program violation that providers should prioritize reporting to probation departments and the courts, we found instances where some providers did not report these absences for months, as we describe earlier in this report. It is critical for the Legislature to provide this additional direction to ensure that all offenders receive consistent rehabilitative programming and that the probation departments, courts, and program providers consistently enforce the conditions of probation.

Further, although state law allows only the court to authorize fee waivers to certain offenders, some probation departments did not identify or correct the practices of program providers who inappropriately waived program fees without the court's approval, as we describe in Chapter 2. We believe the law is clear as it is currently written. However, given that some probation departments and providers have not adhered to state law, we believe the Legislature could emphasize the requirements by expressly prohibiting probation departments and program providers from waiving offenders' program fees.

Finally, with the exception of requiring program providers to immediately report protective order violations, the batterer intervention law does not specify the time frame and circumstances in which providers must report any other program violations. Consequently, program providers do not always report program violations to probation departments and the courts in a timely manner, as we discuss in Chapter 1. As a result, courts and probation departments may lack the information necessary to hold offenders accountable for violating the conditions of their probation. Including in the batterer intervention law specific and reasonable time frames for reporting offenders' program violations would provide additional assurance that program providers clearly understand the requirements and would improve consistency in reporting throughout the State.

Because program providers do not always report program violations in a timely manner, the system may lack information necessary to hold offenders accountable for violating conditions of probation.

Other States Have Established Oversight Systems and Standards That Could Benefit California

To identify best practices for effective program oversight and standards, and to determine whether the type of agency that oversees the program may improve effectiveness, we reviewed five states with batterer intervention programs, as Figure 9 shows. Specifically, we interviewed representatives from Kansas, where a law enforcement agency oversees programs; Oregon, where a criminal justice agency oversees programs; and Washington, where a health and human services agency oversees programs. We also reviewed publicly available information from Massachusetts and Texas.

Figure 9
Other States We Reviewed Have Statewide Standards and Systems for Ensuring Collaboration

	CALIFORNIA	KANSAS	MASSACHUSETTS	OREGON	TEXAS	WASHINGTON
Standards	YES*	YES	YES	YES	YES	YES
Statewide Council	NO	YES	YES	YES	YES	YES
Statewide Oversight Agency	NO	YES	YES	NO	YES	YES
Type of Statewide Oversight Agency	N/A	Law Enforcement	Public Health	N/A	Criminal Justice System	Social and Health Services
Number of Certified Program Providers in the State	Unknown†	42	16	42	127	70

Source: Interviews, reports, and publicly available information from each state.

N/A = Not applicable.

* Although California has standards, they are not sufficient, as we describe in this report.

† Although we could not determine the current number of program providers in California, the five counties reviewed reported having a total of 168 program providers.

We found that each of these states has adopted best practices for oversight and collaboration that might benefit California. Specifically, Kansas, Massachusetts, Texas, and Washington have state oversight agencies that approve, monitor, and renew their programs. Further, each of these state oversight agencies provide guidance to program providers within their states. Oregon has established an advisory committee under its attorney general's office that recommends regulatory standards for its programs. Oregon's advisory committee also approves demonstration projects that deviate from its current standards in the interest of testing innovative, alternative means of addressing domestic violence.

Four of the five states we reviewed—Massachusetts, Oregon, Texas, and Washington—have more comprehensive and robust standards than California and consequently provide more detailed guidance to their program providers. For example, Washington has established specific qualification requirements for its program providers and their direct treatment staff, which vary by position but can include certain education, specialized training, experience, background checks, and counseling credentials. These robust requirements contrast with California's minimal program instructor requirements,

Examples From Washington's Standards

Providers must document …

… offender's understanding of accountability for his or her abusive behaviors and resulting behavioral changes.

… offender's understanding of how children have been impacted by the offender's abuse and the incompatibility of domestic violence and abuse with responsible parenting.

… a minimum of three separate examples of how the offender has taken accountability since beginning their program.

Source: Washington law.

which focus largely on the types of training program facilitators should have received. California does not require the instructors to be licensed counselors or have college or university degrees. Washington also requires its providers to document offenders' cognitive and behavioral changes over the duration of their program. We provide some examples of the required documentation in the text box. California does not have a similar requirement.

Furthermore, Kansas and Massachusetts dedicate an entire section of their standards to curriculum requirements. These two states' standards provide far more extensive detail on the minimum requirements that program curricula must contain than California's standards do. If California provided additional guidance on curriculum content and required documentation of offenders' progress over the course of their programs, it would be in a better position to conduct consistent reviews of program outcomes and to identify areas for ongoing content improvement.

Texas's guidelines are similar to those in California's law in many ways, but they also outline more specific reporting requirements. For example, Texas's guidelines require providers to provide exit reports within five business days of an offender's termination or completion of a program to the agency that referred the offender to the program. California's standards do not specify an expected reporting time frame.

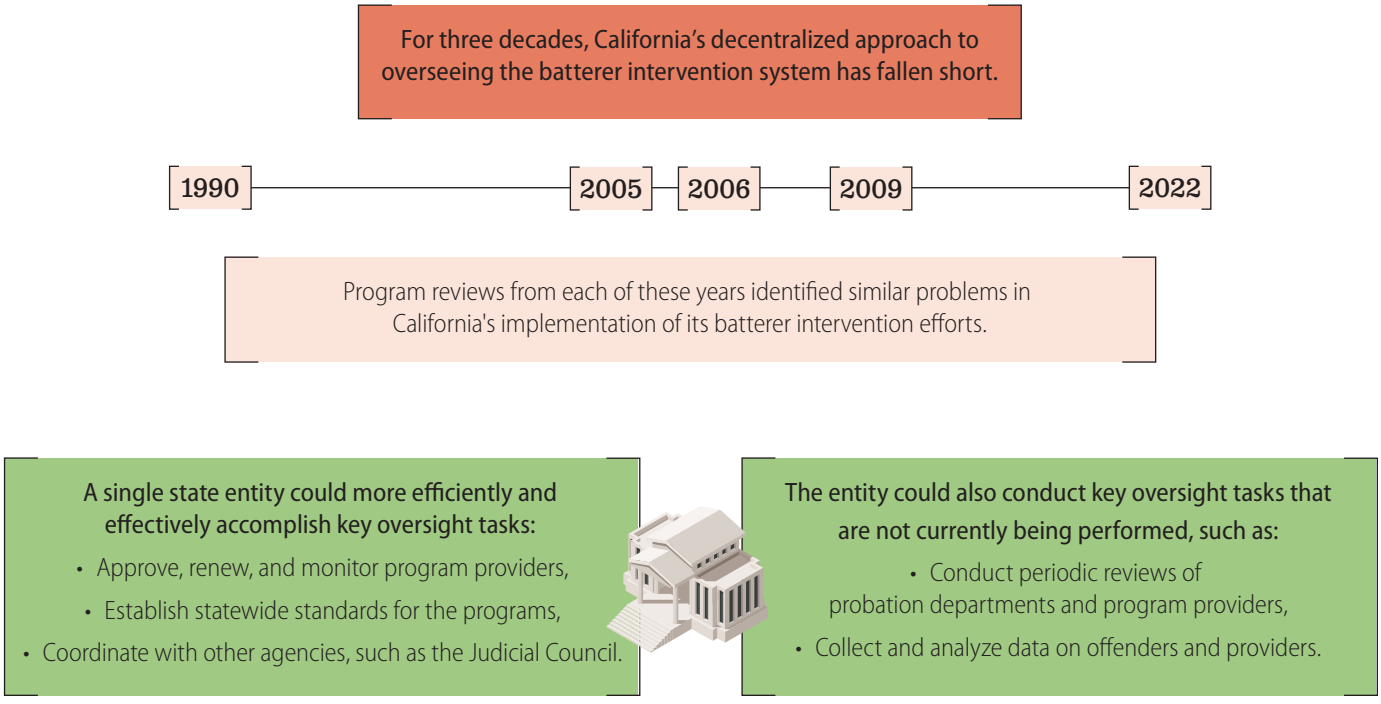
Finally, many states use a process to improve their standards that encourages collaboration among relevant stakeholders. Specifically, from 2014 through 2016, Portland State University researchers interviewed officials in 49 states to understand how they monitor and certify programs for compliance with their standards.[10] At that time, 46 states reported that they had established statewide standards and two more reported that they were developing such standards. According to the Portland State University presentation, 31 states reported having standards committees that were generally responsible for making recommendations for program improvements and for providing guidance for implementing new or existing program standards. According to the states we interviewed, these committees are usually composed of multiple relevant stakeholders, such as probation officials, court officials, mental health professionals, and victim advocates. California currently does not have such a committee.

[10] Eric Mankowski, Ph.D. "Connecting Research, Policy, and Practice Evidence: Findings from a National Survey of Batterer Intervention Program Standards," Portland State University, November 2016.

Improving California's Program Will Likely Require Statewide Oversight and Collaboration

We believe that identifying a state oversight agency and implementing a collaborative statewide approach would allow California to strengthen its program administration and effectiveness, as Figure 10 describes. Specifically, the Legislature could task a single state agency with overseeing program providers to ensure their compliance with state law. That state agency could also monitor probation departments' supervision of offenders to ensure that the departments fulfill their responsibilities in a timely and consistent way. In addition, it could collaborate with the Judicial Council to ensure that it provides sufficient guidance to the courts regarding holding offenders accountable when they violate the conditions of their probation. Finally, the state agency could work with stakeholders—such as law enforcement officials, rehabilitative experts, and victim advocates—to establish statewide comprehensive standards as well as a system to track critical offender and program data, such as completion rates.

Figure 10
The State Could Benefit From a Centralized Entity That Is Responsible for Overseeing Its Batterer Intervention Efforts


For three decades, California's decentralized approach to overseeing the batterer intervention system has fallen short.
1990
2005
2006
2009
2022
Program reviews from each of these years identified similar problems in California's implementation of its batterer intervention efforts.
A single state entity could more efficiently and effectively accomplish key oversight tasks:
• Approve, renew, and monitor program providers,
• Establish statewide standards for the programs,
• Coordinate with other agencies, such as the Judicial Council.
The entity could also conduct key oversight tasks that are not currently being performed, such as:
• Conduct periodic reviews of probation departments and program providers,
• Collect and analyze data on offenders and providers.

Source: Review of historic program reports, the five probation departments' policies and standards, and 100 offenders.

As we previously discuss, none of the probation departments we reviewed have adequately approved, monitored, or reviewed program providers. Centralizing such oversight would create consistency and allow the State to select only the most qualified and effective providers. We considered the size of California and scalability to determine whether state oversight of programs is feasible. Most of the other states we looked at have fewer than 100 certified program providers statewide. As Figure 9 shows, Texas had the most with 127 program providers and Massachusetts had the least with 16 program providers. In notable contrast, we identified about 170 program providers in just the five counties we reviewed.

That said, we believe California has an opportunity to reduce the number of program providers throughout the State. Specifically, the probation departments in the five counties we reviewed explained that after the onset of the pandemic, some of their program providers more commonly made live-streamed classes available for offenders. The availability of these virtual classes has expanded the geographic area in which program providers can operate. For example, one program provider we interviewed stated it is an approved provider in 18 California counties and conducts virtual classes for roughly 800 offenders per week. We are not advocating eliminating in-person classes, as we recognize some offenders may benefit more from in-person instruction or do not have sufficient access to technology. However, we believe California could streamline its oversight efforts by approving only those program providers that are the most qualified to rehabilitate offenders. Thus, statewide approval, renewal, and monitoring of program providers is a feasible consideration.

Virtual classes have expanded the geographic area in which program providers can operate, and California could streamline its oversight efforts by approving only those providers most qualified to rehabilitate offenders.

In addition, a state agency could develop robust standards and guidance for program providers in collaboration with a council of stakeholders. The standards should include state law's requirements and address all of the deficiencies identified in this report and earlier reports, including attendance, probation violations, facilitator training, and reporting requirements. The standards should also enhance guidance regarding program curricula to make them more effective and consistent. The curriculum requirements in the batterer intervention law are limited to one sentence that states that each program shall consist of "educational programming that examines, at a minimum, gender roles, socialization, the nature of violence, the dynamics of power and control, and the effects of abuse on children and others." Likely as a result of this minimal guidance, our review found that program providers vary in terms of the topics they cover. Further, some do not have well-documented curricula that extend beyond a high-level weekly topic list.

To facilitate ongoing improvement, the state oversight agency could also require the collaborative council of stakeholders to meet periodically to discuss program outcomes, relevant program data, and potential statewide improvements to increase program effectiveness. For example, because the State currently lacks centralized data regarding offenders, including whether they complete a program, accurately determining program effectiveness is challenging, if not impossible. The statewide oversight agency could address this issue by tracking and analyzing statewide offender and program data to ensure that providers are effectively achieving the desired outcomes. These data could include offenders' demographics, program completions, and reasons for failing to complete a program. In collaboration with the stakeholder council, the oversight agency could analyze these data and use them to make informed policy decisions that reduce domestic violence.

A statewide oversight agency could track and analyze statewide offender and program data to ensure that providers are effectively achieving the desired outcomes.

As we discuss in Chapter 1, there is some indication that offenders' participation in programs may have a rehabilitative effect. However, until California improves offender accountability and tracks program outcomes, it is premature to ascertain whether the batterer intervention system might improve if it were overseen by a health and human services agency rather than a criminal justice agency. Some of the states we interviewed explained that they track some data on their offenders, but none of the states described how they use data available to analyze the effectiveness of their programs. For example, Washington evaluates program outcomes on an offender-by-offender basis, and therefore, it does not have centralized data available. It is also unclear from the other states' data whether a criminal justice agency or a health and human services agency is better suited to oversee program standards and effectiveness.

To gain additional perspective regarding the possibility of statewide oversight and to determine the best agency that might provide such oversight, we interviewed officials from four potentially relevant state agencies—the Board of State and Community Corrections, the California Department of Public Health, the California Department of Social Services, and the California Department of Justice (Justice). None of the agencies offered strong opinions regarding the most appropriate state oversight agency. However, each expressed that collaboration among stakeholders, including law enforcement and health and human services representatives, would be beneficial to program effectiveness. The departments generally explained that they currently have no direct involvement in the batterer intervention system or that their involvement is mostly limited to services they provide to domestic violence victims, rather than the rehabilitation of offenders.

The California Department of Justice, under the direction of the Office of the Attorney General, is the state agency that is best positioned to oversee batterer intervention programs.

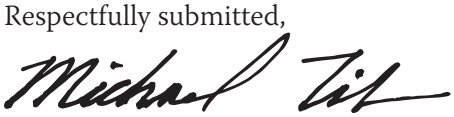
We believe that Justice, under the direction of the Office of the Attorney General (Attorney General), is the state agency that is best positioned to oversee programs statewide. In 2003 the Attorney General convened a 26-member task force to learn how local criminal justice systems have carried out their responsibilities to, among other things, hold offenders accountable for domestic violence crimes. In 2005 the task force reported that it found problematic practices related to program standards and program provider performance. Further, Justice has a research center that is dedicated to applying a scientific approach to legal review, policy and data analysis, and empirical studies leading to data-driven decisions through collaboration. Because the Attorney General is the chief law enforcement officer of the State and because Justice is already responsible for tracking criminal data, such as domestic violence crimes, we believe that Justice is well positioned to lead statewide efforts to reduce domestic violence.

We shared our recommendations regarding state oversight with Justice. Justice stated that it needed more time to explore the recommendations and that it was not in a position to make a public statement about its potential role. It explained that it would need to discuss the possibility internally because the work involved would not fit clearly into any of its existing sections and because it believes that another state agency might be able to more appropriately perform the required responsibilities.

Please refer to the section beginning on page 5 to find the recommendations that we have made as a result of these audit findings.

We conducted this performance audit in accordance with generally accepted government auditing standards and under the authority vested in the California State Auditor by Government Code section 8543 et seq. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on the audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Respectfully submitted,



MICHAEL S. TILDEN, CPA
Acting California State Auditor

October 18, 2022

Appendix

Scope and Methodology

The Joint Legislative Audit Committee (Audit Committee) directed the California State Auditor to conduct an audit of batterer intervention programs in Alameda, Contra Costa, Del Norte, Los Angeles, and San Joaquin counties to determine whether their programs were effectively reducing domestic violence. Further, the Audit Committee directed us to review program oversight and determine whether a health and human services oversight agency, rather than a law enforcement agency, would improve program effectiveness. The table below lists the objectives that the Audit Committee approved and the methods we used to address them.

Audit Objectives and the Methods Used to Address Them

	AUDIT OBJECTIVE	METHOD
1	Review and evaluate the laws, rules, and regulations significant to the audit objectives.	Reviewed and evaluated state laws and regulations related to the batterer intervention system, and county policies, procedures, and standards for programs.
2	Evaluate the counties' probation departments' roles in approving and monitoring programs by doing the following: a. Assess what criteria and data probation departments use when deciding whether to approve or recertify a program. Identify the reasons that programs have been denied by these departments. b. Evaluate the extent to which the probation departments review the performance of programs, and determine how program standards established by probation departments compare across jurisdictions and to state-level standards. c. Determine what data probation departments collect from programs and how they use the data.	• Reviewed and analyzed each probation department's policies, procedures, and practices for approving, monitoring, and renewing programs to ensure that they comply with the requirements in law. We interviewed department staff for perspective. • Reviewed probation departments' denial letters from 2016 through 2020 to determine their reasons for the denial and, to the extent possible, whether they were justified. We interviewed probation department staff for perspective. • Compared probation departments' policies, procedures, practices and program standards to determine the extent to which they monitored program performance and to identify best practices. • For each county, reviewed documentation from one annual on-site visit for a selection of up to three program providers and assessed the extent to which probation departments collect and analyze data. We interviewed probation department staff for perspective.
3	Assess the probation departments' oversight and monitoring of program fees, including fee waivers and sliding scales, to ensure compliance with state law. Analyze whether program fees pose barriers to program completion. As part of that review, consider fee transparency, costs per class and for registration, and the availability of fee waivers and payment plans.	• Reviewed approval, monitoring, and renewal documentation obtained from the counties to determine whether counties oversee and monitor program fees, including fee waivers and sliding scales. • For a selection of 20 offenders from each county, compared ranges of program fees to program completion rates to identify how program fees may affect completion rates. We did not identify any correlation between the program fees and completion rates. • For a selection of up to 15 program providers in each county, reviewed documentation and program provider websites to assess whether they transparently disclose fees. • Interviewed probation department staff and a selection of program providers to obtain perspective regarding the transparency of program fees.

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	AUDIT OBJECTIVE	METHOD
4	For a selection of programs operating in Alameda, Contra Costa, Del Norte, Los Angeles, and San Joaquin counties, assess program outcomes by doing the following: a. Determine the percentage of people who fail to complete program courses. To the extent possible, identify the reasons that participants fail to complete courses. b. To the extent possible, evaluate the effectiveness of programs at reducing future incidents of violence among participants who complete the full program, as well as those who fail to complete the full course. c. Analyze the demographics and income levels of program participants and identify any correlation with course completion and recidivism rates.	• For a selection of 20 offenders in each county, reviewed documentation or file notes to determine the number who failed to complete a program and, if possible, the reasons for failure; participant income; participant sexual orientation; and participant gender. • To identify previous and subsequent crimes, reviewed offenders' criminal histories using information from Justice. We found evidence that Justice does not always possess complete information on offenders' crimes—an issue that was recognized in our 2017 report, *California Department of Social Services: Its Caregiver Background Check Bureau Lacks Criminal History Information It Needs to Protect Vulnerable Populations in Licensed Care Facilities*, Report 2016-126, March 2017. Justice has established an advisory council to address this issue. Although Justice's data are incomplete, we were able to use information from its system to draw limited conclusions as to whether offenders committed previous or subsequent domestic violence or abuse-related crimes. Probation departments did not maintain sufficient data that would allow us to identify any trends in offenders' demographics (age, race, ethnicity, and gender), income levels, program completion, and recidivism rates.
5	Evaluate whether the State's requirements for programs sufficiently address the causes of intimate partner violence and its public health impacts by doing the following: a. Determine the extent to which the programs reviewed under Objective 4 are informed by public health data and address the impacts of trauma, mental illness, substance use disorder or addiction, social determinants of health like poverty and structural racism, and concepts like patriarchy, misogyny, and gender-based evidence. b. Assess how program requirements, such as concurrent counseling for substance abuse—including detoxification and abstinence—and the exclusion of family counseling, impact programs. c. To the extent possible, assess whether programs are meeting the needs of people who voluntarily seek help—those who are at risk of causing harm but are not engaged with the criminal legal system.	• Obtained and reviewed a selection of up to three program providers' course curricula to identify whether those curricula address the impacts of trauma; mental illness; substance use disorder or addiction; social determinants of health like poverty and structural racism; and concepts like patriarchy, misogyny, and gender-based evidence. Of the 14 program curricula we reviewed, we only identified three that address the impacts that each of these issues have on domestic violence. • Interviewed selected program provider directors to determine whether they use public health data to inform their program curriculum, whether they accommodate those who might voluntarily enroll, and whether other treatment or counseling impedes or adds value to programs. Most of the program providers we interviewed stated that they do not use public health data to inform their curricula. Most providers advised that they accommodate voluntary enrollments but had not experienced many. The majority of providers expressed that concurrent counseling—for example, for substance abuse—can be an effective treatment and adds value to programs.
6	Assess whether the probation departments' administration of programs meet the needs of participants with different backgrounds, including gender, sexual orientation, and race or ethnicity.	• Reviewed a selection of studies to identify the needs of offenders with different backgrounds based on published best practices. • Interviewed probation department staff in each county to determine what efforts they have made to meet the needs of offenders with different backgrounds. We found that none of the five probation departments have considered the needs of offenders with different backgrounds in selecting the program providers that serve offenders in their respective counties.

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	AUDIT OBJECTIVE	METHOD
7	To the extent possible, determine whether the effectiveness of programs would be improved if they were overseen by a public health—or human services—oriented agency rather than probation departments. As part of this analysis, evaluate, to the extent possible, whether such a shift may improve prevention of violent incidents, increase the number of people who voluntarily seek treatment, and increase program completion rates.	• Identified any significant trends or patterns in offender demographics, underlying issues, completion rates, and recidivism that could inform whether the effectiveness of programs would improve if overseen by an agency outside the justice system. Probation departments did not maintain sufficient data that would allow us to identify any trends in offenders' demographics (age, race, ethnicity, and gender), income levels, program completion, and recidivism rates. • Interviewed representatives from Kansas and Oregon, which have their programs overseen by law enforcement or a criminal justice system, and from Washington, where a health and human services agency oversees its program, to identify best practices. We reviewed publicly available documentation from these states, as well as from Texas and Massachusetts, to determine the effectiveness of each state's program and whether they were improved when overseen outside of law enforcement or the criminal justice system. • Interviewed three counties in California's pilot programs to determine how they have structured their courses and gain perspective on their courses' effectiveness.
8	Review and assess any other issues that are significant to the audit.	None identified.

Source: Audit work papers.

ALAMEDA COUNTY PROBATION DEPARTMENT

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Marcus Dawal
Interim Chief Probation Officer

September 26, 2022

Michael S. Tilden, Acting California State Auditor*
621 Capitol Mall, Suite 1200
Sacramento, CA 95814

Subject: California State Auditor's Report 2021-113: Batterer's Intervention Programs

Dear Mr. Tilden,

Thank you for the opportunity to respond to the findings and recommendations of the California State Auditor's Batterer's Intervention Programs (BIP) report 2021-113, dated October 18, 2022. The Alameda County Probation Department (ACPD) is in receipt of that report and has the following response to the areas of deficiency identified in the report.

Recommendation 1: Regarding the State Auditor's recommendation, "Alameda Probation should by April 2023, formalize and implement comprehensive policies and procedures for domestic violence case management…"

ACPD has a policy entitled *Adult Services Manual section 111, Domestic Violence Supervision*. This comprehensive policy outlines the expectations placed on ACPD staff regarding managing clients with terms and conditions of community supervision related to domestic violence offenses. The policy outlines the mandatory intervals of client contact, assessments that must be conducted, interactions with victims and treatment providers, and sets regular case reviews to measure the progress and compliance of clients on domestic violence supervision caseloads. Currently, this policy is undergoing the meet and confer process required under the Meyers-Milias-Brown Act with the last remaining impacted employee bargaining unit. The meet and confer process for this policy began on October 31, 2018, and ACPD anticipates that the meet and confer process will conclude before April 2023. ①

Recommendation 2 and 3: Regarding the State Auditor's recommendation, "Alameda Probation should by April 2023, formalize comprehensive program standards for program providers…" and "…should develop and follow formalized policies and procedures for approving, renewing, and conducting comprehensive ongoing monitoring of program providers by April 2023."

ACPD has an existing 33-page document entitled Standards for Batterer's Programs and Certification dated January 15, 2008. These program standards are outdated and compliance by ACPD has not been maintained. The ACPD will update the program standards to align with state law. Program standards will provide clear guidance on the department's expectations and the documentation it will review to verify compliance with state law as recommended by the State Auditor. ACPD also agrees that these program standards should be distributed to program providers during the initial application and approval process and annually during the renewal process.

ACPD has an existing policy entitled, *Adult Services Manual Section 497, Certification and Monitoring of Domestic Violence Batterer's Intervention Programs*. However, this policy was last updated in 2004 and is outdated. Further, ACPD's compliance with said policy has not been maintained. As a result, ACPD is updating the *Certification and Monitoring of Batterer's Intervention Programs* policy. This comprehensive policy will outline the responsibility of

* California State Auditor's comment appears on page 57.

ACPD staff regarding the approval, denial, suspension, revocation, and monitoring of Batterer's Intervention Programs serving ACPD clients.

ACPD is committed to not only updating its existing policy, but also ensuring staff are trained and following all laws and procedures related to the certification of batterer's intervention programs. In response to this recommendation, ACPD will immediately educate staff on issues pertaining to certification of batterer's intervention programs and monitor compliance with said requirements while the policy development process continues.

Recommendation 4: Regarding the State Auditor's recommendation, "Alameda Probation should immediately implement record retention policies to maintain documentation on all offenders for five years after the offenders complete or are terminated from probation"

ACPD agrees with this recommendation. ACPD has an existing policy entitled, *Administrative Manual section 127, Case Records*. This policy outlines requirements of ACPD staff to maintain a case record of all pertinent client documents. Client records related to domestic violence caseloads and treatment provider referrals and notes are covered by this policy. However, ACPD acknowledges that compliance with this policy has not been maintained. Therefore, the education of staff on this issue and subsequent monitoring for compliance will take place immediately.
(1) Further, the draft Domestic Violence policy referenced in ACPD's response to Recommendation 1 also has additional domestic violence case entry requirements. ACPD has also developed and implemented an information technology solution. ACPD has transitioned to a fully electronic case management system. Physical files are no longer utilized and instead all client case documents, activities, case notes, case plans, assessments, and treatment provider notes are recorded and stored in ACPD's online Case Management System. Specifically, ACPD's Case Management System has a "Provider Portal" where treatment provider information can be captured. All data is stored and backed up on cloud storage.

Recommendation 5: Regarding the State Auditor's recommendation, "Alameda Probation should maintain standard program fee information and sliding fee scales for each of the providers they oversee. The probation departments should make this information available to the courts by April 2023"

ACPD agrees with this recommendation. ACPD will be maintaining standard program fee information and sliding fee scales for each provider. ACPD will establish a process to make this information available to the courts.

In addition to the strategies and interventions listed above, ACPD will create a Corrective Action Plan (CAP) outlining all areas of deficiency related to the State Auditor's recommendations and findings. The purpose of the CAP will be to track and monitor progress towards reaching full compliance by assigning items of improvement to specific personnel and regularly reviewing progress of said items. The CAP will be reviewed by executive management no less than quarterly.

ACPD looks forward to achieving full compliance with the State Auditor's recommendations and appreciates the feedback and assistance offered by the State Auditor's Office.

Sincerely,

Marcus Dawal
Interim Chief Probation Officer

cc: Susan S. Muranishi, County Administrator
Donna Ziegler, County Counsel
Chris Pedrotti, Deputy Chief Probation Officer
Dante Cercone, Deputy Chief Probation Officer

Comments

CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE ALAMEDA COUNTY PROBATION DEPARTMENT

To provide clarity and perspective, we are commenting on the Alameda County Probation Department's response to our audit. The number below corresponds to the number we have placed in the margin of its response.

As Alameda Probation points out in its response, its policy related to domestic violence supervision is undergoing the meet and confer process required by state law and, therefore, is still in draft form. We look forward to reviewing the finalized policy and Alameda Probation's efforts to implement it as part of our regular follow-up process. (1)

Probation Department

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Contra Costa County

Esa Ehmen-Krause, MPA
CHIEF PROBATION OFFICER

Michael S. Tilden
Acting California State Auditor*
621 Capitol Mall, Suite 1200
Sacramento, CA 95814

September 26, 2022

RE: Contra Costa County's Response to California State Audit of Batterer Intervention Program

Dear Michael Tilden:

On behalf of the Probation Department of Contra Costa County, thank you to the team of state auditors who conducted an audit of the policies and practices of our Batterer Intervention Program ("BIP"). We understand it was an arduous effort, and the recommendations will assist us in improving our BIP.

The batterer intervention law, namely California Penal Codes sections 1203.097 and 1203.098, has always been our primary source when setting policies, practices, and expectations for our BIP, including when supervising domestic violence offenders, certifying and monitoring BIP providers, and working with outside agencies and the courts regarding the same. We understand and agree, however, that the batterer intervention law, at times, is not specific with what it requires, and we see the benefits of further developing and clarifying our policies and practices to help ensure compliance with the law. Our response to the audit team's recommendations are set forth below:

> ***Recommendation No. 1:*** *To ensure that offenders are held accountable for complying with the conditions of probation, Contra Costa Probation should, by April 2023, formalize and implement comprehensive policies and procedures for domestic violence case management that clearly describe the department's expectations for probation staff's compliance with state law.*

We are currently in the process of developing a Domestic Violence Offender Supervision protocol that will, among other things, set forth clear and unequivocal expectations, policies, and/or practices to: hold offenders accountable; define mandated violations according to Penal Code section 1203.097; offer appropriate supervision strategies according to the risk assessment tool and the offenders' needs; and define the specific roles of the courts, our department, and the BIP providers. We expect this protocol to be formalized and implemented by April of 2023.

* California State Auditor's comments appear on page 63.

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Recommendation No. 2: *To ensure program compliance with state law, Contra Costa Probation should, by April 2023, formalize comprehensive program standards for program providers that present clear guidance on the department's expectations and the documentation it will review to verify compliance with state law. The probation department should distribute these standards to program providers during its initial application and approval process and again annually during the renewal process.*

We agree with the draft report when it states that state law does not currently prescribe what should be included in our standards for overseeing BIP providers, or the guidance that we must provide to such providers. Nonetheless, we will further develop and enhance our current standards and practices to better inform BIP providers of both their legal requirements and our expectations, and we will pay close attention to concerns mentioned in the draft report. As examples, we will specify what we expect to be timely reporting of certain information, and the steps that will be taken if non-compliance is observed. We agree that the best practice should be to distribute these standards both during the initial application and approval process, as well as annually during the renewal process, and we will incorporate this suggestion into our standards. We expect these updated standards will be finalized by April of 2023.

Recommendation No. 3: *To ensure that program providers comply with Contra Costa Probation's standards and state law, the probation department should develop and follow formalized policies and procedures for approving, renewing, and conducting comprehensive ongoing monitoring of program providers by April 2023. These policies should specify the frequency of monitoring, the documentation the department will require of the program providers to demonstrate compliance, and the specific actions the department will take when a provider is noncompliant.*

① Our current approval, renewal, and monitoring process for BIP providers mirrors the requirements set forth in California Penal Code sections 1203.097 and 1203.098. We will further enhance and improve upon our procedure and process to help ensure BIP providers comply with relevant standards and state law. As suggested, we will update our policies to specify, among other things: the documentation we will require from BIP providers; the frequency upon which we will conduct on-site reviews and assessments; and the steps we will take should non-compliance be observed. We will review this process to determine if including it in our Domestic Violence Offender Supervision protocol is appropriate, or develop a separate procedure all together. We expect these improvements to be formalized by April of 2023.

PAGE 3

Recommendation No. 4: *To comply with state law, Contra Costa Probation should immediately implement record retention policies to maintain documentation on all offenders for five years after the offenders complete or are terminated from probation.*

We have updated our record retention policies in accordance with the recommendation, and are in the process of finalizing the policies. We have also directed appropriate staff to immediately begin complying with the anticipated changes in the updated policies.

Recommendation No. 5: *To ensure the courts can provide an offender with a selection of available program providers and their costs before the offender agrees to attend a program as a condition of probation, Contra Costa Probation should maintain standard program fee information and sliding fee scales for each of the providers they oversee. The probation departments should make this information available to the courts by April 2023.*

We agree with the draft report when it states that the batterer intervention law does not require probation departments or the courts to disclose program fees to offenders or to advise them of the availability of fee waivers. That being said, we already currently provide the Contra Costa Superior Court with information about each available BIP provider, the services they each provide, and their costs. We also understand that the Contra Costa Superior Court makes this information available to the public through their website at: https://www.cc-courts.org/family/docs/2021CombinedReferralLists.pdf. Going forward, we will create a process to demonstrate that we have retained and provided such information to the Contra Costa Superior Court. ②

Respectfully submitted,

Esa Ehmen-Krause, County Probation Officer

Comments

CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE CONTRA COSTA COUNTY PROBATION DEPARTMENT

To provide clarity and perspective, we are commenting on the Contra Costa County Probation Department's response to our audit. The numbers below correspond to the numbers we have placed in the margin of its response.

We question Contra Costa Probation's assertion that its approval, renewal, and monitoring process for providers mirrors the requirements in state law because it has not formalized this process in policies and procedures for probation staff to follow. As we describe on page 34 of our report, although Contra Costa Probation has standards that it gives to program providers that describe the general renewal and approval process, it does not have any policies that probation staff must follow for their review of applications and on-site reviews. We look forward to reviewing Contra Costa probations' efforts to develop and follow formalized policies and procedures for approving, renewing, and conducting comprehensive ongoing monitoring of program providers as part of our regular follow-up process. (1)

As we explain on page 42, Contra Costa Probation provides offenders with a listing of providers and some limited fee information; however, it does not include specific pricing for all programs. As part of our audit work, we reviewed the list that the court makes available on its website and found that it also does not provide fee information for each of its available programs. Thus, we stand by our recommendation that Contra Costa Probation should maintain program fee information and sliding fee scales for each of the providers it oversees and should make this information available to the court. (2)

Batterer Intervention Programs Audit* Report 2021-113

Del Norte County Probation Department Response

Response to Recommendations:

The State Auditor has made four primary recommendations that are pertinent to Del Norte County Probation. They are:

1. Formalize and implement policies and procedures for domestic violence case management,
2. Formalize comprehensive program standards to be provided to program providers,
3. Formalize and implement policies and procedures for approval and renewal of batterers intervention program providers,
4. and Provide program fee information for every BIP to the Courts.

These recommendations include a timeline for these items to be completed and implemented by April 2023.

While disagreeing with some of the interpretation of data and practice that have led the Auditor to their conclusions, it is my firm belief that in every arena there is room for improvement, no matter the level of performance that is currently in place. Therefore, in large part I find these recommendations reasonable and have much of the groundwork already laid for full implementation. My response to the recommendations follows.

1. In response to recommendation #1: The Department is already in the process of formalizing and implementing multiple standard operating procedures (SOP) for case management Department-wide. While not complete and implemented yet, such an SOP for the domestic violence offender caseload is currently being drafted and will be fully completed and implemented before the end of 2022. This SOP will be coordinated with and inclusive of a SOP for approval and renewal of BIP programs.
2. In response to recommendation #2: Any BIP provider is required to meet the standards set by Sections 1203.097 & 1203.098 of the California Penal Code. These sections are prescriptive in the requirements that providers must meet to operate a BIP and provide clear, general guidance regarding the implementation and practice of programs. As a

* California State Auditor's comments begin on page 71.

result, the Department has never felt compelled to reiterate what statute already states, finding such a practice unnecessarily redundant and onerous. Despite this, and in context of the recommendations and responses for items #1 & 3, the Department will, as a part of the SOPs to be issued, include program standards reiterating the statutory requirements to BIP providers.

3. In response to recommendation #3: Similarly to a case management SOP, although practice has largely followed statutory guidelines in the past, it has been recognized that a SOP for approval and renewal of programs would be helpful and beneficial to all parties involved. A draft of this SOP already exists and is being finalized at the current time. It also will be completed and implemented before the end of 2022.
4. In response to recommendation #4: As local implementation of systems varies from locale to locale, although the Auditor may have found that program fees have been an unexpected obstacle in some specific cases, it has never appeared to be so in Del Norte County. This is information that would typically be shared at the local Domestic Violence Task Force meetings which occur each month and would require a coordinated response from all the partners involved in addressing the rehabilitation of domestic violence offenders in Del Norte County. Additionally, this is a topic that, were it an ongoing issue, the judges (Del Norte County has two) would take a direct interest in when sentencing domestic violence offenders. As the Court has the ultimate authority when it comes to the processes and information that is required for sentencing, this recommendation will be taken under advisement, discussed with the Court and other local partners, and implemented or not at the Court's direction.

Response to Audit conclusions:

Based upon the information currently provided to the Department, it appears that the overarching conclusion that is reached by the Auditor is that due to numerous factors, including insufficient screening and assessment of offenders by probation departments, a lack of accountability by those same departments leading to offenders failing to complete BIP programs, and a lack of appropriate guidance and accountability for those programs provided by, again, probation departments, the State should reform statute in some fashion so as to transfer the responsibility for program approval and oversight from the local community to State control to achieve better results for offenders and increased safety for victims and the community. It appears that the Auditor believes that this is the most appropriate recommendation given the information that they have. In some sense I agree that there is some logic to that conclusion and that it may result in a more streamlined and efficient approach to standardize programming and achieve what would appear to be more consistency in outcomes across the state.

What I believe is missing in such a recommendation is the recognition that each county is unique, with different resources, justice partners, and expectations of their populace regarding

priorities of the local government. This lack of recognition is twofold: failing to recognize the unique circumstances of each domestic violence offender themselves, and a failure to recognize the local dynamics involved in the regular interaction of the different agencies (most specifically BIP providers) involved in engaging with DV offenders. While the Auditor is not incorrect in pointing out certain flaws and failures in case management or the approval and renewal processes of BIP providers, there are faces and stories behind the numbers and case notes. These conversations in a lobby or office, or lunch meetings with 15 people discussing the local response to DV are not always accounted for by the files or emails the Auditor reviews.

First, each unique offender requires probation departments to tailor their responses just as uniquely to each offender to hold them to account for their actions and provide opportunity for their rehabilitation I believe the Auditor's fundamental misunderstanding of this can most clearly be seen in the report in Chapter 1, discussing "lax supervision" of offenders by the probation departments. In that chapter it is argued that because of a failure to appropriately hold offenders accountable, the majority of offenders were terminated from probation and unable to complete the required BIP program, thus resulting in greater recidivism. This is a circular argument and a logical fallacy, assigning superhuman abilities to probation officers to somehow force offenders to comply with every term of probation so as to not be violated, thereby enabling them to complete the required program and reduce their likelihood of committing further violence. 5

It is not within probation departments' power to force compliance from offenders, no more so than any government agent can force another citizen to make right and appropriate decisions. Rather it is our mandate to provide opportunities for rehabilitation, hold offenders accountable when they fail to meet the requirements of the Court, and to promote public safety while carrying out these duties. 5

In Del Norte County's case, it is illogical to argue that because 11 out of 20 offenders that the Auditor investigated failed to complete their BIP program and were terminated from probation we did not hold them accountable. Rather, ultimately due to the efforts of the Department, the Court, and other local justice partners, 12 offenders who refused the opportunity of rehabilitation (1 who completed the BIP program was terminated from probation for other reasons) were held to account for their crimes and paid their debt to society by incarceration. This fulfilled the mission of the Probation Department in ensuring public safety when other measures were not sufficient and when the offender failed to abide by their agreement to a grant of probation. Numerous violations of probation were filed against these individuals, and due to the unique circumstances of each individual and case, those cases wended their way through the local justice system in different fashions, ultimately ending in termination. On the other hand, even individuals who successfully completed the BIP program and discharged 5

from probation also had violations filed against them, however due to the unique circumstances of their lives and cases they ended with a different result, a more positive result in those cases. Finally, it is worth pointing out that 8 of the 9 offenders who completed their BIP program successfully discharged from probation.

Another factor pointed out by the Auditor in regards to Del Norte's case management is the failure to "conduct an initial assessment for any of the 20 offenders [they] reviewed." This is
⑥ not debatable in regards to 15 of the 20 offenders as they were misdemeanor cases. Del Norte is one of the few, if not the only to my knowledge, who supervise misdemeanor DV offenders. This has been a standing practice for decades and is based upon a long-ago agreement between former judges and chiefs for which the Department does not receive any funding or resources to support this population which typically makes up 70-80% of our DV caseload at any given time. This is essentially done as a courtesy to support the Court in its desire to have someone play a more active role with DV offenders than informal probation allows. As such, standard practice is to not complete the standard assessments which are expected to occur for felony offenders through the presentence report process as well as the risk/need assessment tool utilized by the Department. I would point out that this is no different than every other misdemeanor DV offender in the state who is placed on informal probation.

⑥ In regards to the felony offenders, in each case a presentence report was written and provided to the Court which provides information regarding the offense, an analysis of the plea agreement, and most pertinent to this conversation, personal information regarding the defendant's "antecedents, character, history, family environment, and offense of such person" as is required in statute. In each case these reports were completed and the information provided to all parties for consideration at the sentencing hearing. In addition, although the additional risk/need assessment was not completed as it should have been in 4 out of 5 cases, one of these offenders did also receive that assessment as part of the presentence process. This information was provided to the Auditor. When considered objectively, any practitioner can clearly see that although a formal tool was not used in most of these cases an assessment that meets most of the requirements of 1203.097 PC was conducted on each of these felony offenders and even presented for argument and discussion as part of the sentencing process.

My point in addressing the accountability of these offenders and assessments conducted or not conducted is not to contend that Del Norte is perfect in its case management, but rather
⑤ that accountability and assessments do not equate to successful completion of BIP; the Department would be "lax" in our responsibilities if we forced such an outcome. It was the accountability provided by the Department that resulted in 12 offenders being terminated from probation and assisted 8 others to successfully discharge from probation. The reason the Auditor sees such a dramatic decline in recidivism in those that successfully completed BIP is not because

of assessments and violations filed, but rather because of the personal choice of those offenders to change their own legacies.

The second prong upon which the Auditor bases their conclusion is a systemic lack of guidance and accountability provided to programs by probation departments. Once again, I will not contend that Del Norte Probation is the epitome of efficiency or success in this aspect, as is reflected in my acceptance of the criticism and efforts currently being made to improve in this area. However, I will again contend that the critical aspect of local relationships is what is missing in the Auditor's consideration. ④

Del Norte has only ever had 2 BIP providers at most; for a good portion of the last 6 years we operated with 1 provider only. This is not unusual for a community who struggles to attract and retain clinical experts in every field. Additionally, there has been long-standing cooperation and coordination between different entities and agencies through the local Domestic Violence Task Force group that meets monthly to make our local response as effective as possible. In a small community like ours there is very little that goes unnoticed and the same applies to the response to our DV offenders. These relationships are key in a small community, and the effort to maintain these in order to provide opportunities for offender rehabilitation involves face to face meetings and conversations which the Auditor cannot account for because those face to face conversations do not have documents attached to them.

In such a small community with close relationships being relied upon to keep the system operating effectively, expectations are pared down to the bare necessities. This has been the case in the program approval process and the occasional need to address deficiencies in the programs. Statute provides clear, general guidance for the operation of a batterer's intervention program and in the spirit of expediency, there has never been an operating procedure created to double down on what the statute already requires. When this was questioned during the Auditor's inquiry it was repeatedly pointed out that statute is prescriptive and clear in regards to the responsibilities of program providers and the requirements for approval and renewal. While relying solely on statutory guidance may not the best way to conduct business, it allows business to continue and programs for offenders to engage with and an opportunity to meet the requirements of the Court in their grants of probation. ①

In conclusion, while I believe there are flaws in the logic leading to the Auditor's conclusions, I do believe that there is always opportunity to improve the systems that we use and the outcomes they produce. If the Joint Legislative Audit Committee and the Legislature believe that action must be taken to reform domestic violence treatment and prevention system in any way, I would propose the following: engage with the probation departments and treatment providers around the state to find a workable solution to the problems that are identified. This is already occurring in a few pilot counties that are exploring the possibility of better outcomes

with shorter program requirements. This has occurred with the help of the Legislature opening the door to innovative responses provided by Probation and program providers.

This type of response is in the same vein as actions taken in 2007 when the State realigned a struggling juvenile justice system to the local probation departments. Likewise, in 2009 and 2011 aspects of the adult criminal system were realigned to Probation; and Prop 57 in 2016 and DJJ realignment in 2020-2021 have relied on Probation to implement solutions to statewide problems. History would show that Probation is a problem-solver, and in this case Probation can bring perspective and expertise to the table to enable better outcomes for DV offenders and communities. Perhaps with that input it will be discovered that aspects of the system should be shifted to State control, and perhaps other solutions that have yet to be considered will be discovered instead. Ultimately a collaborative partnership rather than a unilateral decision-making process is more likely to reveal better outcome for our communities. ④

Comments

CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE DEL NORTE COUNTY PROBATION DEPARTMENT

To provide clarity and perspective, we are commenting on the Del Norte County Probation Department's response to our audit. The numbers below correspond to the numbers we have placed in the margin of its response.

We disagree with Del Norte Probation's position that creating program standards is unnecessarily redundant. As we describe in the section beginning on page 29, state law requires probation departments to create standards for program providers to follow. Nothing in the batterer intervention law alleviates Del Norte Probation of this requirement. Further, as we describe throughout the report, program providers—including those from Del Norte County—did not always comply with state law pertaining to offender absences, program fees, and reporting program violations to the probation department and the court. This condition underscores the importance of Del Norte Probation implementing our recommendation to develop comprehensive program standards for program providers that present clear guidance on the department's expectations. (1)

Del Norte Probation is incorrect that its practice for the approval and renewal of programs has largely followed statutory guidelines. As we describe on page 34, Del Norte Probation does not have a formal approval and renewal process. Further, as we state on page 35, Del Norte Probation could not demonstrate that program providers submitted all required documentation for their annual renewals. Moreover, we explain on page 36 that Del Norte Probation could only demonstrate that it conducted one of ten required on-site reviews during our audit period and, even then, it did not address significant deficiencies that it identified. Therefore it is important for Del Norte Probation to implement our recommendation to develop policies and procedures related to the approval and renewal of programs. (2)

Del Norte Probation suggests that it has shared program fee information at its local domestic violence task force meetings and that our conclusions related to program fees are only applicable to other counties. That suggestion is incorrect and unsupported. During our audit, Del Norte Probation provided us with several of its task force meeting minutes, none of which included discussions of program fees. As we state on page 43, we found that probation departments, including Del Norte, generally do not maintain program fee information and therefore have likely not provided (3)

such information to the courts. Additionally, we explain on page 32 that a program provider in Del Norte County established a fee scale that waives fees for offenders who earn less than $39,000 annually. However, this program's practices directly contradict state law, which allows only a court to fully waive an offender's fee. Given that Del Norte Probation was not able to demonstrate that it had shared fee information with the court and allowed a program to operate with a fee scale that contradicts state law, we believe it is important for the department to implement our recommendation to share fee information with the court.

④ In accordance with audit standards, we provided Del Norte Probation with a redacted draft report that included information pertinent to the department. Pursuant to state law, we did not provide Del Norte Probation with our findings and conclusions related to the other probation departments or courts we reviewed. We disagree that our conclusions related to statewide oversight of the batterer intervention system are missing a recognition of counties' unique and different resources and partners. On page 47 we recognize the importance of a state oversight agency working with stakeholders, such as law enforcement officials, rehabilitative experts, and victim advocates to establish statewide comprehensive standards as well as a system to track critical offender data. Such collaboration would necessarily include a consideration of the diverse needs and resources throughout the State.

⑤ Nowhere in our report do we conclude that because of a failure to appropriately hold offenders accountable, the majority of offenders were terminated from probation and unable to complete the required program, thus resulting in greater recidivism. Rather, as we state on page 16, programs are most effective when offenders complete them—which requires courts, probation departments and program providers to hold offenders accountable for complying with the conditions of their probation. Further, we did not conclude that probation departments have the power to force compliance from offenders as Del Norte Probation incorrectly claims. Instead, as we state on page 21, state law requires probation departments to inform the courts when offenders violate the conditions of their probation. Although Del Norte Probation claims to have filed numerous violations of probation against offenders we reviewed, we found many instances—nearly 80 violations—when Del Norte Probation failed to report violations to the court. Thus, we stand by our conclusion that Del Norte Probation did not sufficiently inform the courts of all probation violations and thereby did not hold offenders accountable.

⑥ Del Norte Probation's practice of not completing assessments of misdemeanor offenders does not comply with batterer intervention law, which, as we describe on page 18, requires probation

departments to conduct initial assessments of all offenders after they are placed on formal probation. State law does not alleviate Del Norte probation from complying with this requirement based on whether the court has convicted the offender of a misdemeanor or felony. Further, Del Norte Probation indicates that although it did not complete formal assessments of all felony offenders, it completed pre-sentence reports that contain most—not all—of the areas that state law requires. Again, this approach does not comply with batterer intervention law. Thus, we stand by our conclusion that Del Norte Probation must conduct initial assessments that address all areas required in state law of all offenders placed on formal probation.

JUDICIAL COUNCIL OF CALIFORNIA

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TANI G. CANTIL-SAKAUYE
Chief Justice of California
Chair of the Judicial Council

MARTIN HOSHINO
Administrative Director

September 26, 2022

Mr. Michael S. Tilden, CPA
Acting California State Auditor
621 Capitol Mall, Suite 1200
Sacramento, California 95814

Dear Mr. Tilden:

I appreciate the opportunity to respond to your draft audit report focusing on the Batterer's Intervention Program (program). Domestic violence is a serious public safety issue, and I appreciate your efforts to improve program oversight and accountability. Your draft report provides examples of offenders who have repeatedly failed to complete the program, only to have courts order them to reenroll instead of proceeding to sentencing, as required by law.

Your draft report correctly acknowledges the Judicial Council's limited role in providing training and resources to judicial officers, who themselves retain full judicial discretion when adjudicating the offenders appearing in their courtrooms. To this end, the Judicial Council has published a *Domestic Violence Bench Guide* (bench guide) as a resource for judicial officers.

The bench guide reiterates Penal Code section 1203.097(a)(12), which partially states: "If the court finds that the defendant is not performing satisfactorily in the assigned program…the court must terminate the defendant's participation and proceed with further sentencing." The council's bench guide also reflects the findings of the Attorney General's 2005 task force on domestic violence, which recommends that judicial officers—along with local probation departments and prosecutors—develop strategies to ensure multiple reenrollments in the program do not take place without additional and graduated sanctions.

Based on the draft report provided for the council's official comments, I generally agree with your report's findings. My staff will share the final published report with those who serve on the

Mr. Michael S. Tilden, CPA
Acting California State Auditor
September 26, 2022
Page 2

council's relevant advisory and policy committees. The council will provide a more specific corrective action plan once it has had an opportunity to review the data and full context provided in the final, published audit report. The Judicial Council understands and accepts the State Auditor's rationale for redacting significant portions of the draft audit report (parts of chapter 1 and all of chapters 2 and 3), and we greatly appreciate the audit team's efforts to provide us with as much context as they did. Nevertheless, the specifics and full context behind the audit team's findings at the trial courts will undoubtedly further inform the council's specific corrective action.

I thank the audit team for their professionalism, and my staff look forward to providing future updates on our efforts to implement the sole recommendation directed to the Judicial Council. If you have any further questions regarding this response, please feel free to contact Grant Parks, Principal Manager–Audit Services at 916-263-1321.

Sincerely,

Martin Hoshino
Administrative Director
Judicial Council

MH/gp

COUNTY OF LOS ANGELES
PROBATION DEPARTMENT
9150 EAST IMPERIAL HIGHWAY – DOWNEY, CALIFORNIA 90242
(562) 940-2501

ADOLFO GONZALES
Chief Probation Officer

September 26, 2022

Michael S. Tilden, CPA*
Acting State Auditor
621 Capitol Mall, Suite 1200
Sacramento, CA 95814

Subject: 2021-113 – Confidential Draft Audit Report for Review

Dear Mr. Tilden:

The Los Angeles Probation Department has reviewed the redacted copy of the draft California State Auditor report regarding local government batterer intervention programs, which details the audit was conducted as the result of a Joint Legislative Audit Committee request. As required by State law we have kept this draft report confidential.

Please see the Department's attached written response to this draft report. Our complete response will be sent in both Word and PDF formats attached to an email to Karen Wells, team leader, at karenw@auditor.ca.gov by 5:00 p.m. on September 26, 2022.

For any further information, please contact Richard Giron, Deputy Director, at (562) 940-2594.

Sincerely,

ADOLFO GONZALES
Chief Probation Officer

Rebuild Lives and Provide for Healthier and Safer Communities

* California State Auditor's comments appear on page 85.

September 26, 2022

Los Angeles County Probation Department's Response to Batterer Intervention Program (BIP) Audit conducted by California State Auditor

Responses to Recommendations

Recommendation # 1 - To ensure that offenders are held accountable for complying with the conditions of their probation, formalize and implement comprehensive policies and procedures for domestic violence case management that clearly describe the department's expectations for probation staff's compliance with state law.

① Response: *The Probation Department has policies and procedures for domestic violence case management; however, the policies and procedures are not in a singular comprehensive document. The Department agrees to develop and implement a comprehensive and cohesive policy and procedure manual for domestic violence probation staff, including case management expectations.*

Recommendation # 2 - To ensure program compliance with state law, LA County Probation should by April 2023, formalize comprehensive program standards for program providers that present clear guidance on the department's expectations and the documentation it will review to verify compliance with state law. The probation department should distribute these standards to program providers during its initial application and approval process and again annually during the renewal process.

Response: *The Department agrees with this recommendation and will develop and implement, by April 30, 2023, program standards and expectations for program providers. Once completed, the standards and expectations will be distributed to providers at the initial approval process and annually thereafter.*

Recommendation #3 - To ensure that program providers comply with LA County Probation's standards and state law, the department should develop and follow formalized policies and procedures for approving, renewing, and conducting ongoing monitoring of program providers by April 2023. These policies should specify the frequency of monitoring, the documentation the department will require of program providers to demonstrate compliance and the specific actions the depart will take when a provider is noncompliant.

Response: *The Department currently has a dedicated unit that is responsible for monitoring program providers, including approving and renewing eligibility to be placed on the list of BIP providers. The Department will revise our current policies and develop more comprehensive monitoring guidelines and corrective action plans addressing providers who are noncompliant. The written guidelines and updated policies will be implemented by April 30, 2023.*

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Los Angeles County Probation Department's Response to Batterer Intervention Program (BIP) Audit conducted by California State Auditor

Recommendation #4 - To ensure that the courts can provide an offender with a selection of available program providers and their costs before the offender agrees to attend a program as a condition of probation. LA County Prob should maintain standard program fee information and sliding fee scales for each of the providers they oversee. The probation department should make this information available to the courts by April 2023.

Response: *The Department provides the courts with a list of BIP providers. The Department agrees that clients should be made aware of fees associated with attending a BIP program, therefore, the Department will modify the BIP provider list to include a fee range. The Department will also maintain standard program fee information and sliding fee scale for each of the providers. This will be updated and implemented by April 30, 2023.*

Responses to Findings

Los Angeles Probation did not assess all offenders for underlying issues, such as mental health and substance abuse concerns that might interfere with the offender's ability to complete the program. (Chapter 1)

The batters' intervention law only requires probation departments to conduct initial assessments of offenders on formal probation. We therefore expected that Los Angeles Probation conducted assessments of offenders on formal probation fully and consistently…Nonetheless, Los Angeles Probation did not always perform these assessments of offenders on formal probation…of the initial assessments that Los Angeles Probation did complete, both were missing at least one required aspect. Finally, the assessments from our review that Los Angeles Probation conducted did not always assess offenders economic background, a verbal consultation, or efforts to coordinate with the victim, or a determination of the probability the offender would commit murder.

Response: *The Los Angeles County Probation Department assesses probation clients using three (3) validated assessment tools. The Modified Wisconsin (DRAD), which is completed at the investigation phase; the Level of Service Case Management Inventory (LS/CMI) risk/needs assessment that contains specific responsivity factors and a case planning component, is completed within 30 days of case assignment; and Spousal Assault Risk Assessment (SARA) which is an evidence-based decision support tool, that utilizes a 20-item checklist designed specifically for assessing and managing risk of intimate partner violence including the likelihood of murder (lethality). The SARA gathers data from: interviews with the client and victims, police reports,*

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Los Angeles County Probation Department's Response to Batterer Intervention Program (BIP) Audit conducted by California State Auditor

victim statements, criminal records, history of drug and alcohol use, mental health evaluations, and use of standardized measures of physical and emotional abuse.

The results from the three (3) assessments administered by the Los Angeles County Probation Department are recorded in the Adult Probation System (APS) and a hard copy of the assessments is stored in the probation client's physical file. The Department systematically addresses staff's non-compliance with monthly review of probation statistical data which is used to address staff's deficiencies with timely administration of assessments.

② *The Department acknowledges and agrees that for the two assessments reviewed by the Auditor, at least one of the required aspects was missing. The Department will revise the client intake and orientation process to ensure that all aspects are assessed. This will be completed by April 30, 2023.*

Los Angeles Probation and its program providers have not adequately held offenders accountable for probation and program violations. (Chapter 1)

…Los Angeles Probation did not adequately assess offenders as required to identify obstacles, which could prevent them from completing a program. Additionally, Los Angeles Probation and its providers did not always notify the courts when offenders violated probation…

Response: *It is the Los Angeles County Probation Department's responsibility to hold clients* ③ *accountable and notify the court. The Department disagrees with the characterization that the Department is not holding clients accountable. During the audit period from 2016 - 2020, the Department supervised 1,998 domestic violence cases and submitted numerous probation reports and violations. The Department takes client accountability very seriously. We reviewed the three (3) sample cases and verified that probation violations were submitted, including one (1) probation violation that resulted in the court revoking probation and imposing a state prison sentence.*

Probation officers are required to review potential violations with their supervisor within 24-hours of becoming aware of the potential violation and to report to the court within 30 days. Furthermore, clients are provided with an orientation which includes a review of the terms and conditions of their supervision and are assessed using the Level of Service Case Management Inventory (LS/CMI) and Spousal Assault Risk Assessment, evidence-based risk/needs assessment tools which would reveal if a client had any obstacles in completing the terms and conditions of

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Los Angeles County Probation Department's Response to Batterer Intervention Program (BIP) Audit conducted by California State Auditor

their supervision as ordered by the court. Probation Officers work with the client and utilize existing resources to provide targeted service delivery.

Some of the offenders did not complete their 52-week program. (Chapter 1)

The Batterer Intervention law does not require the counties or any state entity to track the data that the State needs to evaluate offenders' completion of programs or programs effectiveness at stopping domestic violence. As a result, Los Angeles Probation does not maintain comprehensive data on offenders, including the reasons why they may have failed to complete the program…Los Angeles Probation did not maintain complete documentation on all offenders as state law requires.

Response: *The Department acknowledges that BIP law does not require counties to track data, but we agree that comprehensive data collection is needed to evaluate the effectiveness of the program. We are in the process of enhancing our data collection to include outcomes of program participation. Probation utilizes a case management system that is utilized to maintain records for each client and will be enhancing our system to include outcome data.*

Los Angeles Probation and its providers did not sufficiently inform the courts of all probation violations. (Chapter 1)

In our review of 20 offenders from Los Angeles County we found that 18 offenders violated their probation requirements at least once. These violations ranged from having unallowed program absences, to making contact with the victim in violation of a criminal protective order, to committing a subsequent abusive crime…. Because our review of the 25 offenders did not include offenders that Los Angeles Probation supervised, we conducted an additional review of three offenders that the probation department supervised. In this separate section we found that Los Angeles Probation did not report violations to the court…. In part, Los Angeles Probation has not held offenders accountable because it lacks sufficient policies and procedures to guide its probation officer's supervision of offenders. Los Angeles Probation does not have adequate policies to ensure that its probation officers conduct initial assessments as required by law or to ensure that offenders enroll in and appropriately attend a program. Additionally, Los Angeles Probation's policies do not spell out the probation officers' responsibility to notify the court when an offender does not complete a program within 18 months.

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Los Angeles County Probation Department's Response to Batterer Intervention Program (BIP) Audit conducted by California State Auditor

Response: *The Los Angeles County Probation Department has policies that detail supervision officer's procedures which include holding the probation client accountable. We will review and enhance our policies to ensure our probation officers adherence to state law. In regard to reporting violations, Los Angeles County Probation policy states that DPOs are to clear all violations with their supervisor within 24-hours and report to the court any potential violations within 30-days of becoming aware of a potential violation. There is also a requirement for the DPO of Record to have a mandatory minimum of one (1) contact with the program provider (52-week program) within 30 days after the probation client produces proof of enrollment. The Los Angeles County Probation Department is committed to enhance policy and procedures for communicating with program providers on client progress. The Department will revise our current policy and provide training to probation staff by April 30, 2023.*

Los Angeles Probation has not provided sufficient guidance to program providers. (Chapter 2)

Los Angeles Probation has not provided adequate guidance to its providers on how to address unallowed absences, including unexcused absences and excused absences that exceed the three allowed. Los Angeles Probation standards do not address absences at all… Los Angeles Probation standards also lack sufficient guidance about the timeliness with which program providers need to report certain information to the department…Finally, Los Angeles Probation did not provide sufficient guidance to assist program providers in charging offenders' appropriate fees.

Response: *The Los Angeles County Probation Department is committed to review and update current policies relating to program standards and reporting guidelines for program providers, including the reporting of absences. The Department will develop written guidelines for program providers and will seek to enhance procedures related to program fees. In addition, the Department conduct training to staff and providers to address program absences and reporting timelines. This task will be completed by April 30, 2023.*

Los Angeles Probation has not adequately approved, renewed or monitored program providers. (Chapter 2)

Los Angeles Probation lacks sufficient policies and procedures for approving, renewing and monitoring programs.

Response: *The Los Angeles County Probation Department is committed to reviewing and updating policies and procedures for approving, renewing, and monitoring programs. The Los*

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Los Angeles County Probation Department's Response to Batterer Intervention Program (BIP) Audit conducted by California State Auditor

Angeles County Probation Department has already initiated efforts in collaboration with the Information Technology department to establish a digital storage library for all documents pertaining to the approval, renewal, and monitoring of the BIP programs. The Department's BIP monitoring unit is responsible for monitoring 147 unduplicated program providers. The Department is in the process to restructure the monitoring unit and implementing corrective measures. This task will be completed by April 30, 2023.

Los Angeles Probation does not have adequate processes for soliciting, approving, and renewing programs. (Chapter 2)

Response: *The Los Angeles County Probation Department is committed to reviewing and updating policies and procedures for soliciting, approving, and renewing programs. This task will be completed in collaboration with our Contracting Unit to enhance our current solicitation process. The updated procedures and policies will be completed and implemented by April 30, 2023.*

Los Angeles Probation did not adequately monitor program providers and renewed programs that did not fully comply with state law. (Chapter 2)

Response: *The Los Angeles County Probation Department is committed to reviewing and enhancing our program monitoring to ensure that guidelines are written, published, and distributed to the program providers. The updated guidelines will be completed and distributed by April 30, 2023.*

Los Angeles Probation could not demonstrate that it fully discloses program fees to offenders. (Chapter 3)

Los Angeles Probation does not maintain program fee information and therefore has likely not provided such information to the courts.

Response: *The Los Angeles County Probation Department is committed to establishing a program fee schedule for providers that service probation clients and provide the information with the client and the court. The Department will revise policy to maintain program fee information. The program fee schedule process will be updated and made available to the courts and clients by April 30, 2023.*

Comments

CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE COUNTY OF LOS ANGELES PROBATION DEPARTMENT

To provide clarity and perspective, we are commenting on the County of Los Angeles Probation Department's response to our audit. The numbers below correspond to the numbers we have placed in the margin of its response.

Los Angeles Probation focused its response on the compilation of its policies and procedures into a single document. However, when it develops the policy and procedure manual it describes, it will be important for the department to address the areas in which we found its existing policies and procedures to be inadequate, an issue we describe on pages 24 and 25, and in the section beginning on page 33. (1)

Los Angeles Probation understates the extent of the problems we identified. As Table 1 on page 20 shows, we found that Los Angeles Probation conducted only two of its three required assessments. (2)

During Los Angeles Probation's review of the draft audit report, it notified us that the documentation related to reporting probation violations that it had provided us during the audit was incomplete. It provided additional documentation regarding the three offenders we reviewed. However, our review of this additional information did not change our initial findings. As we indicate on page 21, we found at least one instance when Los Angeles Probation did not report a probation violation to the court. Further, as we describe on pages 22 and 23, even when probation departments—including Los Angeles—did report violations to the court, they did not always ensure that those reports were timely. For example, we identified one instance when Los Angeles Probation did not notify the court of a violation for nearly seven months. (3)

SAN JOAQUIN COUNTY
PROBATION DEPARTMENT
Supporting a Safer, Stronger Community

Steve Jackson CHIEF PROBATION OFFICER

September 22, 2022

Michael S. Tilden*
Acting California State Auditor
621 Capitol Mall, Suite 1200
Sacramento, CA 95814

RE: State Audit Report (2021-113)- Batterer Intervention Programs

Dear Mr. Tilden,

On behalf of the San Joaquin County Probation Department, this letter provides a response to the draft redacted State Audit report titled, "Batterer Intervention Programs: State Guidance and Oversight Are Needed to Effectively Reduce Domestic Violence"

In response to the draft audit report recommendations, the Probation Department provides the following:

Recommendation #1: To ensure that offenders are held accountable for complying with the conditions of their probation, [San Joaquin Probation] should by April 2023, formalize and implement comprehensive policies and procedures for domestic violence case management that clearly describe the departments' expectations for probation staff's compliance with state law.

Response #1: The San Joaquin Probation Department has policies and procedures in place for domestic violence case management. However, we understand, and will ensure officers strictly follow the letter of the law, along policies and procedures. (1)

Recommendation #2: To ensure program compliance with state law, [San Joaquin Probation] should by April 2023, formalize comprehensive program standards for program providers that present clear guidance on the department's expectations and the documentation it will review to verify compliance with state law. The probation department should distribute these standards to program providers during [its] initial application and approval process and again annually during the renewal process.

Response #2: The San Joaquin County Probation Department has Domestic Violence Provider Expectations, which is given to all providers upon certifying, and recertifying programs. To comply with state law, we will ensure our expectations are more comprehensive and distributed to program providers. (2)

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Adult/AB 109 Services
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575 W. Mathews Road
French Camp, CA 95231
209.468.4068

* California State Auditor's comments appear on page 89.

SAN JOAQUIN COUNTY
PROBATION DEPARTMENT
Supporting a Safer, Stronger Community

Steve Jackson CHIEF PROBATION OFFICER

Recommendation #3: To ensure that program providers comply with [San Joaquin Probation's] standards and state law, [the probation department] should develop and follow formalized policies and procedures for approving, renewing, and conducting comprehensive ongoing monitoring of program providers by April 2023. These policies should specify the frequency of monitoring, the documentation the department will require of program providers to demonstrate compliance, and the specific actions the department will take when a provider in noncompliant.

(3) **Response #3:** The San Joaquin Probation Department recognizes a more comprehensive monitoring and improved guidance on the department's expectations, and the documentation we review to verify Batterer Intervention Programs (BIP) are in compliance with state law.

Recommendation #4: To comply with state law, [San Joaquin Probation] should immediately follow its record retention policies to maintain documentation on all offenders for five years after the offenders complete or are terminated from probation.

(4) **Response #4:** The San Joaquin Probation Department does follow its record retention policy; however, we do recognize our organization of closed files could be streamlined to ensure that all documents are retained according to policy.

Recommendation #5: To ensure the courts can provide an offender with the selection of available program providers and their costs before the offender agrees to attend a program as a condition of probation, [San Joaquin Probation] should maintain standard program fee information and sliding fee scales for each of the providers they oversee. The probation departments should make this information available to the courts by April 2023.

Response #5: Although this recommendation is not mandated by law, the San Joaquin Probation Department agrees this is good business practice. We will ensure this information is made available to the Court.

Steve C. Jackson
Chief Probation Officer

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Comments

CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE SAN JOAQUIN COUNTY PROBATION DEPARTMENT

To provide clarity and perspective, we are commenting on the San Joaquin County Probation Department's response to our audit. The numbers below correspond to the numbers we have placed in the margin of its response.

Although we recognize that San Joaquin Probation has policies and procedures for domestic violence case management, as we describe on pages 24 and 25, its policies and procedures are inadequate to ensure that probation officers conduct initial assessments as required, that offenders enroll in and appropriately attend a program, or to provide officers with clear direction regarding how to address offenders who violate the conditions of their probation and the time frame for doing so. Thus, as we indicate in our recommendation, San Joaquin Probation should formalize and implement policies and procedures that comprehensively describe the departments' expectations for probation staff's compliance with state law. (1)

As we acknowledge throughout the section beginning on page 29, although San Joaquin Probation has some standards, they are not comprehensive enough to give program providers the direction necessary to assist them in complying with state law and adhering to the department's expectations. We look forward to reviewing San Joaquin Probation's progress in implementing our recommendation as part of our regular follow-up process. (2)

It is unclear from San Joaquin Probation's response whether it agrees with our recommendation and what actions it intends to take to implement our recommendation. We look forward to reviewing San Joaquin Probation's subsequent responses as part of our regular follow-up process. (3)

As we describe on page 15, some probation departments, including San Joaquin Probation, did not maintain complete documentation on all offenders, or did not appropriately maintain complete documentation for five years. Thus, we stand by our recommendation that San Joaquin Probation immediately begin following state law and its record retention policy. (4)